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THE POLITICAL IDEAS OF THE PURITANS. II.

IN the three southern colonies of New England, the democratic character of Puritanism found from the first much more perfect expression than in the others. The towns whose people migrated to Connecticut had shared in the movement of the freemen against the clergy and magistrates in Massachusetts. The emigrants carried with them a logical democratic theory, and were prepared to put it into practice. The leading exponent of this theory was Thomas Hooker, the Hartford pastor, and from him, more than from any other individual, came the impulse which led to its realization. What he did was the practical outgrowth of the theory of church government which later he so fully expounded. On May 31, 1638, his famous sermon was preached before the General Court at Hartford, in which he argued "that the choice of public magistrates belongs with the people by God's own allowance"; that "the privilege of election, which belongs to the people, therefore must not be exercised according to their humors, but according to the blessed will and law of God";[1] that "they who have power to appoint officers and magistrates, it is their power also to set the bounds and limitations of the power and place into which they call them." The reasons on which he based this doctrine were: "because the foundation of society is laid firstly in the free consent of the people; because by a free choice the hearts of the people will be more inclined to the love of the persons chosen and more ready to yield obe-

[1] Connecticut Historical Collection, I, 20; from shorthand notes by Henry Woolcott.

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dience"; because the people will consider themselves bound by their "duty and engagement." After thus stating the essentials of the democratic theory of government, Hooker closed with an appeal to the court to use the liberty God had given it. Seven months later the Fundamental Orders[1] in their perfected form were adopted, — the document so celebrated as the first American constitution. According to this, political power under God is derived from the free consent of the people. The freemen of the towns declare that they "do associate and conjoin" themselves "to be as one public state or commonwealth." For themselves, their successors and all others who might from time to time be annexed to them, they

> enter into combination and confederation together to maintain and preserve the liberty and purity of our Lord Jesus; which we now profess, as also the discipline of the churches . . . now practiced amongst us; as also in our civil affairs to be guided and governed according to such laws, rules, orders and decrees [as appear in the document which follows].

In the laws of Connecticut correct religious belief was not made a condition of full citizenship. The governor alone was required to be a church member. Still, both in theory and practice, the Calvinistic idea of the connection between church and state was maintained. Hooker taught that both in his books and in his sermons. The General Court of Connecticut legislated freely on religious matters. But the spirit both of its laws and of their administration was more liberal than that shown in Massachusetts. The clergy did not try, as in the latter colony, to control political affairs and make all other interests subserve their own. It does not appear that the custom of consulting them on matters of policy prevailed long or to any great extent. Hooker died in a few years after the government of the colony was founded, and no ecclesiastical statesman appeared to take his place. But he lived long enough to see fully realized in his colony the democratic tendencies of Calvinism.

[1] Connecticut Records, I, 20–25.

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The same political ideas were carried into practice at New Haven, though with a more intensely theocratic spirit. In the so-called "plantation covenant," under which Eaton, Davenport and their companions lived during the first year after their arrival, the principle was set forth that, "as in matters which concern the gathering and ordering of a church, so likewise in all public offices which concern civil order, . . . we would all of us be ordered by those rules which the Scripture holds forth to us."[1] In the famous meeting of June 4, 1639, the government of both state and church was organized. The two in fact were from the first identical, as none but church members were admitted to the position of freemen, and for four months the seven "pillars" of the church were also the only magistrates. The article upon which the exercise of ecclesiastical power was based was the sixth in the general covenant. Each article of this document was separately propounded by Davenport and agreed to, and at the end it was ratified as a whole by a final vote and signed by all the freemen. Nothing could be more logically exact than this process, and in full harmony with it was the policy of the New Haven colony until absorbed by Connecticut.

A share in the development of Rhode Island, as well as in that of the other New England colonies, must be assigned to Puritanism. For Roger Williams and William Coddington, the one the founder of Providence and the other of the first settlement on Aquidneck, were both Calvinists in their theological beliefs. It was for political far more than religious heresy that Williams was banished from Massachusetts.[2] Coddington was a member of the Boston church until the Antinomian controversy broke out, and it was chiefly because of the arbitrary conduct of the General Court in the matter of the petition that he persisted in his opposition until he was banished.

[1] New Haven Records, I, 12.

[2] See formulated charges in Winthrop, I, 193, 204. Also his sentence and the reasons therefor in Mass. Record, I, 160. Cotton in his Reply to Mr. Williams, gives substantially the same account, pp. 27 *et seq.* In religious belief Williams was a thorough Calvinist. This he showed conclusively in his debate with the Quakers, 1672; *cf.* George Fox digged out of his Burrows, and introduction by Diman, Narragansett Club Publications, vol. v.

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Roger Williams was a pronounced Separatist and an ultra-democrat. He believed that all civil power proceeded from the people, that governments could exist only so long as they were entrusted with power by the people, and that men could not be deprived of their natural freedom by tyrants.[1] The settlement which he founded was for four years governed under a compact,[2] in which the inhabitants of the town agreed to submit to "all such orders or agreements as shall be made for the public good of the body in an orderly way by the major consent of the present inhabitants, masters of families," and of such as should in the future be admitted to citizenship. In 1640 an agreement to settle all disputes by arbitration was drawn up and signed by the citizens. To the magistrates, however, was reserved the right to use force in cases of obduracy. Williams and his associates frequently availed themselves of this right, and so kept the spirit of insubordination measurably subdued. Coddington and his followers based their government at Portsmouth on a compact[3] in which they promised, wholly after the manner of their Puritan brethren, to form a body politic and to submit themselves to God and his laws. They expressly referred to the compact made by the Jewish people as a model which they wished to follow. Substantially the same course was taken at the settlement of Newport. When these two townships united in 1641, they proclaimed themselves to be

> a democracy or popular government; *i.e.* it is in the power of the body of freemen orderly assembled, or the major part of them, to make or constitute just laws . . . and to depute from among themselves such ministers as shall see them faithfully executed.

Gorton, the founder of the town of Warwick, was reputed to be an Antinomian. He certainly was an erratic character, who caused trouble wherever he went. Like some of the agitators in England he carried the right of private judgment, the individualistic side of Puritanism, to a dangerous excess. Still he was a genuine product of the movement. How far his

[1] Bloody Tenent of Persecution. Reprint by Hanserd Knollys Society, pp. 214, 215.
[2] Rhode Island Records, I, 14.
[3] *Ibid.* I, 52.

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conduct was due to genuine convictions, and how far to resentment at the extreme injustice he suffered from Massachusetts, it is hard to decide. At any rate, so extreme a democrat was he that in his township he would acknowledge no stronger bond than that of arbitration. When the three groups of settlements about Narragansett Bay united under the Rhode Island charter, they formed a colony in which democratic principles were carried, according to the opinion of its neighbors, almost to the verge of anarchy.

The practice of Rhode Island respecting religious toleration and the ideas which proceeded from her citizens on that subject were the chief source of this opinion. Massachusetts had adopted the Presbyterian theory of the relation between church and state. In the persecution of heretics some of her divines and magistrates showed a zeal equal to that of Knox. Plymouth and Connecticut followed a course which corresponded rather to the liberal sentiments of Robinson. But in all three of these colonies the interests of the state were believed to be imperilled by the presence of Anabaptists, Quakers, Socinians and other sectaries, whose development, like that of their persecutors, had proceeded from an assertion of the right of private judgment. Those who held doctrines or adopted forms of worship for which authority could not be found in the Word of God as interpreted by Calvin and his disciples, it was considered to be the imperative duty of the state to remove, as sources of moral contagion infinitely more dangerous than physical disease.

It was obviously more difficult for the Independents to defend a policy of persecution, than for the Anglicans or Presbyterians. Had they not asserted the right of private judgment for themselves against both these parties in England? Had not many of them sought the tolerant protection of Holland, that they might there enjoy freedom of worship? Their form of church organization, too, was favorable to local effort and freedom. Unless modified, as it was in New England, it would lead to local differences both in practice and belief. In order to explain the growth of toleration it is not necessary to credit the

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religious sects of the seventeenth century with philosophic breadth of view or with an humanitarian spirit. Save in the works of a few individuals, like the early latitudinarians in the English church, these are not to be found. The spirit shown in the works of Calvin himself compares very favorably with that of any of his successors. They all taught that salvation could not be obtained outside the true church, and called upon the state to co-operate with them in their work. But soon a practical difficulty appeared. The Reformation destroyed the religious unity of Europe. The coherence of society on that side was broken. A great variety of sects appeared, each claiming a hearing. Such a multiplication of forms of dissent, each more individualistic than its predecessors, made the enforcement of uniformity at first difficult and then impossible. Forms of persecution became milder, and the classes affected less numerous. Social interests other than those connected with religion rose to prominence. Statutes against heresy were less rigidly enforced. Gradually they were allowed to become obsolete and at last were repealed. In this way the need of society for religious growth was satisfied. Men became accustomed to religious toleration when they saw it existing around them, and adapted their views to facts. These tendencies had been at work some time, both in England and in the Puritan colonies, when they found expression in the writings of the apostle of toleration, Roger Williams. His controversy with John Cotton was an important event in the history of New England opinion on the subject. Both were representative men, and, though Cotton shrank from some of the conclusions to which his theory led, they fairly express the divergent opinions which were developing within the Calvinistic body.[1]

[1] The books and pamphlets written during this controversy, and from which the following account of it is taken, were: 1. The Controversie concerning Liberty of Conscience in Matters of Religion truly stated by Mr. John Cotton (London, 1646). 2. The Bloody Tenent of Persecution, by Williams (London, 1644). 3. A Reply to Mr. Williams, by Cotton (undated); The Bloody Tenent washed and made White in the Blood of the Lambe, by Cotton (London, 1647). 4. The Bloody Tenent yet more Bloody, by Williams (London, 1652). Williams' writings have been reprinted by the Narragansett Club.

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In the course of the discussion Cotton admitted that there were two cases in which the toleration of evil, *i.e.* of error, was justifiable: (1) when the state was too weak to resist it; (2) when by tolerating it greater evils were prevented than would arise if it were suppressed. He also admitted that persecution could reach only the bodies, not the souls of men. Therefore, he said, he would not establish the church with the help of persecution, but, when once established, such means might be resorted to in its defence. He of course condemned the persecution of the Puritans in England, because they held the true doctrine. He compared their treatment with the unmerited sufferings which the Jews inflicted upon Christ. In such cases he believed the persecuted were entitled to the right of passive resistance. He was also ready to make certain formal distinctions. The essentials of the faith must be upheld, but in matters of inferior importance some differences of judgment might be allowed. In reference to non-essentials also a distinction must be made between the person who, though he held erroneous views respecting them, was meek and peaceable, and one who boldly uttered them, so as thereby to disturb the peace. The former should be tolerated "till God may be pleased to manifest his truth to him"; the latter should be punished.

But Cotton's mind was evidently disturbed by the case of the unbeliever who, though otherwise peaceable, should after admonitions still cling to his heresy. It was difficult to justify the punishment of such a one as an heretic, and at the same time defend the claim which the Puritan had made in England. The cases seemed exactly parallel. But Cotton brought forth from his theological armory the following remarkable argument. He said in effect that by the admonition, that is, the presentation of the truth, the conscience of the unbeliever had been convinced of error, but his corrupt will had then interposed and caused him to hold out stubbornly against the truth. Consequently, if the magistrate took him in hand, it could not be said that he was persecuted, because that term is applied only to the constraining of conscience. Say rather that he was punished as a "culpable and damnable" person, a turbulent heretic and

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schismatic, guilty of seduction and blasphemy, which lead to spiritual adultery. In other words, Cotton tried to prove that what is usually called persecution was the punishment of rebellion, a crime the penalty of which the offender brought upon his own head. The use of so fallacious an argument as this indicates that even John Cotton did not fully believe the doctrine which he had set out to defend. He was trying to explain away its enormity, or conceal it by means of metaphysical subtleties. Though he relied upon Augustine and the earlier Calvinists as authorities, he did not meet the issue so directly as did they. He also strenuously maintained that a state church had not been established in Massachusetts, and that freedom of conscience was not prohibited there.

After full allowance is made for his admissions, Cotton's theory is substantially this. No deviations from the essentials of the faith are to be tolerated. Outspoken opposition to less important doctrines may be silenced in the interests of public peace and order. Dissentients who have been sufficiently admonished may be said to have become wedded to their errors, and are sources of evil against which the community must be protected. Thus the only opportunity granted for the utterance of dissenting opinions was that during which the person who held them was subject to admonition. The process of admonishing was called in the speech of the time "dealing" with the offender, and was resorted to as soon as possible after symptoms of heresy made their appearance. Just here also one must remember that the idea of essentials is very indefinite and might be stretched by the Puritan to cover nearly the whole body of his faith. Cotton's theory then left practically no room for dissent. "Liberty of conscience," said he, "is to be granted to men that fear God." Neither had he anything new to present respecting the relations of the state and the church. Like his predecessors, he started out with the assumption that their spheres were different; but so strong was his belief that the maintenance of orthodoxy was necessary to political weal, that before the argument had progressed far he utterly confounded the work of the two. He admitted that the church alone might deal with heresy in

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the abstract. But heresy, when taught, immediately became concrete. It then, he said, begets social evil and corrupts the state. Though the church expel such teachers, they remain to poison society. The magistrate must then interfere to remove them, as the Jews banished unclean persons from the congregation. It must be supposed that the magistrates are duly qualified for this work, though ignorance on their part of the essentials of religion would not justify them in withholding their assistance from the church. Laws about religion, he said, are truly civil laws, because they so intimately concern the welfare of the state. The magistrate must take the pagans for an example, and cherish religion as he would honesty or the other virtues.

Williams met this argument at once with the assertion that "all civil states, with their officers of justice, in their respective constitutions and administrations, are proved essentially civil, and therefore not judges, governors or defenders of the spiritual or Christian state or worship." He compared the church to a society of physicians or a trading company, which might be formed and dissolved without disturbing the civil power. Changes made by or within it should be purely voluntary. That even the existence of the church was not an absolute condition of civil prosperity, he attempted to show by the history of the pagan nations. Legitimate and well-ordered states had existed in the heathen world. Not only was this true, but within the Christian state itself variety of belief was not an evil. Both history and current experience proved that unbelievers might make good citizens. He claimed that neither Christ nor the apostles required strict religious conformity. They were indifferent to physical aid. They relied on spiritual weapons, for their object was not the establishment of a material kingdom, but of a power which should rule over the hearts of men. Religion was solely an affair of the conscience, within whose holy temple no magistrate could enter. Christ had abolished the Jewish system of a national religion. Its history therefore could furnish no precedents which were binding on Christians. Upon these grounds Williams pleaded for the broad-

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est possible toleration, both of Jew and Gentile, Catholic and Protestant, and for the total separation of church from state. He would even have education secularized. The magistrate, he said, owes to the church the submission of his own soul, and the protection of its members and estates against injury; but the last two duties he also owes to false religions.

After thus stating his fundamental principle, Williams proceeded to show the practical difficulties in the way of enforcing conformity. It was in the first place impossible, he said, to agree upon the essentials of the true faith. Of the New England Puritans, some thought that partial communion might be maintained with the English church, others that that church was Antichrist. According to the accepted theory, the latter should persecute the former. But if the Puritans in power were not agreed upon such important points, how expect to reach universal agreement? Further, the magistrates to whom the enforcement of conformity must be entrusted were not capable of exercising their power aright, for they could not truly discern the will of God. Hence those whose opinions they sought to correct were the victims of arbitrary power. If all governments continued to persecute, there would be no place left in the civilized world where those who claimed freedom of conscience could live. They must take refuge in the wilderness, as he himself had done. Even then they might be pursued, and find that there was no room for them upon the earth.

Not only did Williams' keen sense of independence revolt against such coercion of the human spirit, — soul-rape and murder, as he called it, — but his feelings were shocked and his sympathies aroused by the thought of the untold bodily and mental sufferings which persecution had caused. He pictured to himself the horrors of the wars, the massacres, the assassinations, the torturings and cruel deaths, the rending of family ties, the devastating of towns, nay of whole countries even, which had been caused by that spirit of intolerance and strife that had established itself where Christ had come to proclaim liberty and peace. This gave to his plea for freedom a touch

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of the humanitarianism of the next century, and a fervor for which Cotton's proud confidence in the truth of his dogmatic system was an inadequate substitute. At times Williams' enthusiasm for freedom and humanity found utterance in passages of a style decidedly Miltonic.[1] To his mind, as between liberty and artificial conformity, there was no question on which side the advantages lay. Liberty would solve all difficulties, restraint would increase them. The progress of the truth had been hindered instead of promoted by resort to force. Williams was an opponent of war, whether dynastic, commercial or religious. But in the domain of religion especially did he believe that peace and truth are allies. Without the former, the latter could not be perceived or accepted.

Cotton's assertions about the actual relations between church and state in Massachusetts Williams met with a flat denial. He said that heresy was both recognized and punished, though "with a sword of a finer gilt" than that used in the old world. He ridiculed Cotton's argument that men were punished there, not for conscience, but for sinning against conscience. He referred to the fact that the ministers were not wholly supported by voluntary contributions. He analyzed the policy of Massachusetts in detail and showed how inconsistent it was with the proper theory of the separation of church from state. A state church, he concluded, had really been established in that colony. The contrast between her treatment of dissenters and the demands which the Puritans had made while in England was duly emphasized.

It is difficult for one living now to do justice to these controversialists. In stating their arguments the writer is tempted to cast a slur at Cotton and to grow enthusiastic over Williams. We see at once that the Boston pastor lived in an age that was passing away. He held views of life which were becoming obsolete. The Reformation which he defended had brought a principle to the front which, when combined with the revival of secular learning, was destined to make the grosser forms of

[1] This is true especially of the eloquent peroration to the Bloody Tenent yet more Bloody.

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persecution impossible. The Protestant reaction against the excesses of Münster was undoubtedly necessary and most serviceable. In this Calvinism bore a leading part. But the time had passed when a single sect could make its claim to universal supremacy valid. That was inconsistent with the spirit of Protestantism itself, and with facts which were multiplying every day. Still for a time it was natural that sects should claim exclusive possession of truth and infer from that their divine right to rule. This both the Anglican and the Presbyterian had done in England. The Independent was attempting the same thing in America. Cotton was abreast of his times, but not one step ahead of them. He defended a system of which he formed a part, with which his thoughts and feelings were in agreement. He believed that it embraced truths of infinite value, which, when accepted, developed characters of the noblest type. Such being the conditions, nearly all of his contemporaries would have argued as he did. They would have said: Let the extent to which force is employed to defend the system vary with the peril to which it is exposed. That Puritanism contained much which was worth defending, no one who has studied its history will deny. Cotton held an honorable place among its apologists. If he was in the modern sense narrow and unscientific, so were his times. His defence of persecution, revolting as many of its passages are, is written in a milder and more apologetic tone than that assumed by some of the earlier Protestants, to say nothing of the Catholics. The arrogant spirit which he showed in the discussion was surely in part begotten of the system which he defended. It was the natural product of belief in a dogmatic system which had met with worldly success. Massachusetts showed the same spirit in dealing with her weaker neighbors. Still all that can be said in Cotton's defence amounts to only a relative justification. It is the merit of Williams that he took an important step in advance of his contemporaries, and so opened a new way of escape from the most serious evil of his generation.

To Williams more than to any other man among English-speaking peoples belongs the honor of expounding and defend-

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ing the theory of the secularized state. The germ of it appears, as we have seen, in the writings of Calvin. It was inherent in the very idea of the Reformation. Renewed study of the first three Christian centuries necessarily brought it again to the front. But it had been obscured by an unscientific use of Jewish history, by the influence of mediæval ideas, and by the necessity which struggling churches felt for the support of the secular power. Williams, in spite of his Calvinism, was led by his love of independence, his strong emotions and the sufferings he endured, to adopt the theory and carry it to its logical conclusion. He was evidently brought to accept this view by feeling rather than by argument. The culture of the Renaissance was as foreign to him as to Cotton. Allusions to art, to the Elizabethan literature, to the ancient classics are scarcely to be found in his books. The basis of his culture was essentially Puritan. Everything he wrote has the theological rather than the humanistic cast. His attacks were directed solely against the constraints which Puritans and all other religious sects laid upon tender consciences like his own. He had felt the pain which this caused. He saw the disastrous results to which it led. He was driven into extreme revolt thereby, and became the staunch defender of voluntaryism. This doctrine was simple, as the theory of *laissez faire* is, when applied to any group of social relations. Sects must learn to co-exist. They must break their union with the state and compete freely for the support of mankind. By doing this they would lose some artificial support, but they would gain in real vigor; and above all persecution would become impossible. The state could thus perform its proper functions, without being diverted therefrom by the demands of the church. It would be relieved of great burdens, and its subjects freed from the prospect of endless misery.

Many, both in England and the colonies, were prepared to listen to this doctrine. The leaven of toleration had been silently working within the Puritan body, though Cotton and his associates had not perceived it. Still they found each successive act of persecution harder to carry through and more difficult to

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defend than its predecessor. Winthrop, at the close of his life, expressed doubt respecting the wisdom of the policy. But the Puritan colonies felt too weak to do without it, and so persecution and constraint were resorted to in Massachusetts till after the home government interfered on behalf of the Anglican residents. The magistrates and clergy then found themselves unsupported by public opinion, and the system collapsed. Toleration was secured by the retirement of the state from all control over ecclesiastical affairs. The theory of Williams obtained legal recognition in all the states when they separated from England and united into a federation.

Viewed in the light of general politics, this cannot be regarded as a solution of the most difficult problem which confronts a Christian state. Church and state are not related to each other as two separate spheres whose circumferences touch, but whose existence is otherwise distinct. They are parts of a common social organism. Williams, in his eagerness to escape from the control of a narrow-minded and intolerant clergy, dealt that organism a serious blow. He lopped off one of its members, and thereby put difficulties in the way of the moral and to a certain extent of the intellectual education of the nation. Instead of untying the knot, he cut it. He sought a remedy for a serious evil by denying the existence of what really is. He was the forerunner of the modern individualist, who thinks all that is needed is to loosen social bonds and give to private enterprise the freest scope. The so-called divorce of church from state may succeed in a country in which the great majority of the population is Protestant and in which, therefore, there can be no important religious dispute. But in a country whose population is divided with approximate equality between confessions having widely varying ideals, there will be a religious question, involving also different types of culture. To this question, under these circumstances, government cannot be indifferent. It must control and harmonize passions of such volcanic energy, or be itself swept away amid fierce party conflict. Under such conditions a policy based on the theory of Williams must fail. It would occasion rather than hinder persecution.

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Men would be forced to return to the fundamental thought of Cotton, and to reassert, not for partisan ends but in the interests of the whole people, the organic nature of the connection between church and state.

But while Puritans were laying the foundations of civil and religious polity in New England, institutions were being remodelled in the parent country by men of the same belief. Political thought was more active there than it has been at any subsequent time. The Presbyterians, like the conservative Puritans of New England, endeavored to establish by law their aristocratic system of church government. During the civil war they and the Independents were agreed as to the necessity of retaining the King, but they wished so to limit his power as to make Parliament supreme.[1] Neither of these sects yet accepted the principle of religious toleration. But, naturally, among the believers in the Independent system of church government were to be found the republicans of the time and the few Puritans who desired toleration, or, if need be, the total separation of the civil from the ecclesiastical power. Yet it was to be expected that tradition and long-established institutions would in the older country prevent the general acceptance of theories which in the colonies could be put into practice almost without resistance. Still, during the two decades between 1640 and 1660, England and her Puritan colonies were moving in the same general direction. The bonds of sympathy between them

[1] The doctrine advocated by Eliot and Pym in the Commons was that Parliament, consisting of the Lords and Commons and representing the nation, was the sovereign power in England. They conceived of Parliament as a body separate from and hostile to the King. The conflicts of the time prevented them from seeing the necessary union of the two, and that it was revolutionary to predicate sovereignty of Parliament apart from the King. William Prynne was the leading pamphleteer among the Puritans who wrote upon the legal aspects of the controversy. His views may be found scattered through almost innumerable pamphlets issued between the opening of the Long Parliament and the Restoration. His most ambitious effort, The Sovereign Power of Parliaments and Kingdoms, though filled with heaps of pedantic rubbish, represents well the views of the Puritans of the Long Parliament. The argument rests wholly upon the dualistic conception of the relations between Parliament and monarch. Prynne labors to cite as many historical instances as he can in which the Houses, backed by the nation, have limited the King's power, hindered him in the prosecution of his policy or dethroned him. By Puritans quite as much as by Cavaliers was the history of England twisted to suit partisan ends.

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were stronger than at any subsequent time. A brief review of the development of English Puritan thought respecting politics during that period will prove this, and will also show wherein the colonists, who were somewhat in advance of their brethren, exerted an influence upon them.

It is clear that the downfall of the system of Strafford and Laud was followed by a rapid growth of Independency in England.[1] Opinions which had long been cherished in secret could then be expressed, and the conditions were favorable for their reception. Some of the exiles returned from Holland. Not only was emigration to New England checked, but some influential men returned and others were tempted so to do. Previous to this much interest had been shown by the English Presbyterians and Independents in the growth of the ecclesiastical system of New England. As early as 1637 the New England ministers began, at the request of their brethren at home, to explain and defend their form of church government. Between that time and the establishment of the Protectorate a large number of brief statements and treatises on the subject were sent by the New England clergy to London for publication. As many of the ablest among the Puritan ministers of England had removed to America, it was natural that their writings should attract much attention. That they did so is proved by the fact that nearly all of them elicited replies from the Presbyterians.[2] It was intended that these books should influence English affairs, and therefore they were sent in the largest numbers about 1644, when the Westminster Assembly was beginning its sessions. Henry Vane, the younger, ex-governor of Massachusetts, was a member of that body, and was ready, with the five Independent ministers who had seats, to defend the New England form of church government. Outside, Hugh Peters, Thomas Welde, Hanserd Knollys, men who were well acquainted with New England, were actively supporting the same cause. A little later they were joined by Edward Wins-

[1] See Hanbury's Memorials, II; Masson's Life and Times of Milton, II and III; Fletcher's History of Independency, III.

[2] Hanbury's Memorials, II.

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low. To the influence of these men must be added that of those relatives of the New England Puritans who had remained in the mother country, and of the sons who, having been sent back to be educated, had finally settled in England. The Earl of Warwick, too, with Lords Brooke[1] and Say, must have been influenced to some extent by what they knew to have occurred in New England. Independency was familiarly spoken of as "the New England way." Its successful working, though in remote colonies, must have strengthened the belief and arguments of its supporters at home.

But in England, as everywhere else at that time, theological debates gave rise to political issues. At the time of which we are speaking the Puritans had long been acting as a political party. The Independents formed the left wing of this body. The same types of opinion are observable among them as among the New England colonists. The political programmes of the two bodies were very similar. All the English Independents became republicans, holding more or less extreme views, and among them a growing party favored toleration. The radicals advocated the separation of church from state. When in 1644 Roger Williams went to England to negotiate for the Rhode Island charter, he found that Henry Burton and John Goodwin,[2] two of the leading Independent ministers of London, were defending the views which he himself had adopted. Williams at once addressed to the Westminster Assembly a pamphlet in which he condemned all state churches, as unwarranted by the gospel.[3] He queried whether a national church could be upheld "without a racking and tormenting of the souls as well as of the bodies of persons." Truth and peace, he declared, could not flourish under it, and it must lead to formalism,

[1] In 1641 Lord Brooke published his Discourse on Episcopacy, in which he not only defended the Puritan ideal of church government, but wrote so nobly in favor of toleration that his book is a worthy precursor of Milton's Areopagitica. See Gardiner, History of England, X, p. 36.

[2] Burton had been pilloried with Bastwick and Prynne in 1637. Goodwin was the successor of John Davenport in the pastorate of St. Stephen's, Coleman Street, London.

[3] Queries of Highest Consideration, *etc.* Reprinted in the Publications of the Narragansett Club, II.

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hypocrisy and persecution. This was soon followed by the issue of the *Bloody Tenent of Persecution.* It was altogether the most important plea for toleration which any Puritan had then made, and accordingly the book was burned by the Presbyterians. At the same time the younger Vane, with whom Williams was on intimate terms, was pleading in the Westminster Assembly for complete religious toleration. In September of this year Cromwell, aided by St. John and Vane, obtained an order from Parliament that a way be found by the assembly for the toleration of Independents, and if possible for a union between them and the Presbyterians. Two months later appeared Milton's *Areopagitica*, in which the widest liberty of thought was urged for all except papists. About the same time Lieutenant-Colonel John Lilburne, the most thoroughgoing radical of the period, a man whom Cromwell liked but did not trust, began his career as a violent opponent of all the existing institutions of government. To his numerous pamphlets, issued for the most part from prison and filled with denunciations of the monarchy, the nobility, the church, even the Commonwealth itself after it had been established, and with demands for the greatest possible religious, political and economic freedom, one must go, in order to understand the views of the Levellers, the ultimate product of the Independent movement in the seventeenth century. There will be found statements of the theory of contract and of the deductions which follow logically from it, that might have been written in France a century later.[1]

Although the Presbyterians controlled both Parliament and the assembly, their triumph was short. Cromwell early accepted the doctrine of toleration and carried it into practice in the army. Its ranks were soon filled with Independents and adherents of the more extreme views which were then known

[1] Among the more important of Lilburne's pamphlets are England's Birth-Right Justified (1645); London's Liberty in Chains Discovered (two parts, 1646); Vox Plebis (1646); Royal Tyrannie Discovered (1647); The Legal Fundamental Liberties of the People of England Vindicated (1649); A Declaration of Some Proceedings of Lieut.-Col. John Lilburne and his Associates (1648); the Trial of Lieut.-Col. J. L. (1649).

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as Anabaptism and Antinomianism. A large part of both the officers and the soldiers were republicans, and many adopted ultra-democratic theories.[1] During 1646 and 1647 the breach between Parliament and the army developed. Early in the latter year the army organized under the lead of the Agitators and became an active political force. The occasion of this was the resolve of Parliament, adopted after the retirement of the Scots, that the soldiers should be paid off, a part of them sent to Ireland and the rest as far as possible disbanded. This resolution was carried by the Presbyterian majority. As soon as the action became known political agitation in the army began. At Saffron Walden in April, 1647, meetings were held and protests drawn up. Parliament declared the petitions which the officers presented offensive and ordered the mutinous proceedings to cease. June 4 and 5 a rendezvous was held at Newmarket; a week later another at Triploe Heath, near Cambridge. At Newmarket a solemn engagement to secure equal rights and common liberty was entered into, and a council was organized. Shortly afterwards the King was seized and brought into the camp. Preparations were then made for an advance on London, while Parliament was ordered to expel eleven of the foremost Presbyterian leaders. Early in August the troops entered the capital, but, meeting with no resistance, encamped at Putney. The King was taken to Hampton Court.

The political views of the army as a whole are best stated in the Heads of the Proposals, drawn up by Ireton, August 1, 1647, to be presented to the King and to Parliament.[2] In these, biennial Parliaments were demanded, the members of which should be elected in districts whose population should be equalized by the disfranchisement of small boroughs and the bestowment of the seats thus vacated on the large counties. The freedom of elections should be guarded as carefully as possible. The subject should be protected in all possible ways against

[1] Masson, III, 523 and 146 *et seq.*, gives a good description of the army and of the ideas that prevailed in it.

[2] Rushworth, VII, 731–736. Reprinted by S. R. Gardiner, Constitutional Documents of the Puritan Revolution, p. 232.

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arbitrary judicial proceedings. For ten years control over land and sea forces and the appointment of the great officers of state should be entrusted to Parliament. After that Parliament should share with the King the power of appointment. All acts enforcing religious conformity should be repealed and all church officers should be deprived of the power to coerce by civil penalties. To this programme, which was to be carried immediately into effect, were added demands for the abolition of all monopolies and restraints on freedom of trade, for the removal of unnecessary irregularities in taxation, for the reformation of the tithe system, for the simplification of legal procedure, for full liberty of petition and for laws of debt more favorable to the debtor. This manifesto called for changes which were then utterly impracticable under the monarchy. Many of them proved too sweeping even for the Commonwealth.

The Heads of Proposals, however, were laid before the King, while the Parliament again brought forward the Newcastle propositions. Charles, probably to secure time by prolonging the negotiation, declared that he preferred the scheme of the army. But in the camp at Putney the Levellers had now become very strong. The arguments of Lilburne and his resistance of government had given them confidence. The Agitators had fully adopted Levelling principles, which were nothing else than thorough-going democracy. The lower tradespeople and artisans of London were rapidly adopting the same opinions. In the camp the Agitators now refused to listen to the Proposals or to any scheme of compromise with the King or Parliament. They declared that the King could not be trusted, and that no more dealings should be had with him. They accused the officers, especially Cromwell, of selfish ambition, because they continued to negotiate with Charles.[1]

[1] The feelings and views of the Levellers during the autumn of 1647 may be gathered from John Wildman's Putney Projects. This is an argument against the Heads of Proposals and the conciliatory policy which the generals seemed at the time to be pursuing toward the King. It abounds in denunciation of Cromwell, as the betrayer of the liberties of England. A new Parliament elected by universal suffrage is demanded; and it is insisted that it should sit until every petition from the people was answered.

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While feeling throughout the army was in this condition, the Levellers issued their first declaration of principles,[1] October 15, 1647. It was signed by the agents of five regiments of horse which were under the command respectively of Cromwell, Ireton, Fleetwood, Rich and Whalley. This document was extremely democratic in tone. It spoke boldly on the people's behalf and was in fact the herald of the approaching meeting. It demanded not only that the previous remonstrances of the army should be heeded and a date fixed for the dissolution of the existing Parliament, but that thereafter elections should be by manhood suffrage.

> Whereas, [the paper runs] all power is originally and essentially in the whole body of the people of this nation, and whereas their free choice or consent by their representatives is the only original or foundation of all just government, and the reason and end of the choice of all just governors whatsoever is their apprehension of safety and good by them; that it be insisted upon positively that the supreme power of the people's representors, or Commons assembled in Parliament, be forthwith clearly declared.

After specifying more particularly the right of absolute Parliamentary control over legislation and over the appointment, removal and punishment of officers, they demand

> that all obstructions to the freedom and equality of the people's choice of their representors, either by patents, charters or usurpations by pretended customs, be removed by these present Commons in Parliament, and that such a freedom of choice be provided for as the people may be equally represented.

The Agitators then ask that the excise on all English commodities be removed and taxes imposed on foreign goods instead; that investments in the shares of the merchant companies of London be heavily taxed to pay the arrears of the army; that commons and unsold church lands be reserved for public use; that all monopolies be abolished; that prison abuses and long detention of prisoners without trial cease. A demand was also made that no one should be forced to incriminate himself. The

[1] Case of the Army truly Stated. 24 pp. This was signed at Guilford October 9. The leading name in the list of signers was Robert Everard.

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sentiments of the previous manifestoes on the matter of toleration were repeated with the addition that the tithe system be abolished. No privileges should be granted by which individuals or classes were raised above the law. A committee should be appointed to reform law and procedure "that withal, the laws might be reduced to a smaller number, to be comprised in one volume in the English tongue, that every free commoner might understand his own proceedings" and processes be short and speedy.[1] Other grievances, it was said, could be mentioned and would be presented by the counties, but those stated could be remedied at once. A large number of the above demands were also made in various petitions presented to Parliament by the Levellers of London during 1647.[2]

The theory of the Levellers is further illustrated by the Agreement of the People, which was also drawn up in October, 1647.[3] It purported to have been agreed to by the army, and was laid before the people for their acceptance. It was evidently regarded as a social compact, which, in the form of a written constitution, was to proceed from the people as the source of sovereignty and to define the functions of the Parliament and of all the authorities of the state. The people would thus be protected against the otherwise arbitrary power of Parliament, and, if at any time that body should become corrupt, the liberties of the nation could not be destroyed.[4] The framers of this document contemplated only one governing body, a House of Commons. After the mode of election, the organization and the powers of this body have been described, the rights reserved by the people are stated. They are freedom of religious belief, exemption from impressment, protection against suits growing out of anything said or done during the late war, and equality of all before the law. Laws also must be made for

[1] Compare with this the effort of Barebone's Parliament to reform the Court of Chancery.

[2] Some of them are printed in a pamphlet entitled Gold Tried in the Fire, or Burnt Petitions Revised. 12 pp. Many petitions of like sentiments were presented to Parliament from London and other towns in 1648. See Masson, III, 613.

[3] An Agreement of the People for a Firm and Present Peace upon Grounds of Common Right and Freedom. 14 pp.

[4] See Introduction to the Agreement, p. 9.

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the public good. "These things," they say in conclusion, "we declare to be our native rights, and therefore are agreed and resolved to maintain them with our utmost possibilities against all opposition whatsoever. . . ." The Agreement in the above form was never laid before Parliament, for a few weeks after its issue occurred the abortive mutiny of the regiments at Ware. After being softened in tone, however, and variously modified, it was presented to Parliament, January 20, 1649.[1] In this earliest scheme of a written constitution proposed in England the views of the Levellers found their last authoritative expression. That their ideal, save in the matter of toleration, was the same as that of the New England Puritans, is evident. Upon that question experience forced them to accept the opinions of Williams. Almost every political reform which they desired was secured by enactment in the colonies. They were logical and consistent republicans, and at the same time Independents in their theory of church government. Doubtless in the case of the great majority of them religious convictions had led to the adoption of their political views.

The revolutionary energy thus developed in England was not sufficient so to level the old institutions as to make the establishment of a new and radically different system possible. Still the work of the Agitators was not without immediate and important result. The King was led by their threatening attitude to escape to the Isle of Wight and to open negotiations again with the Scots. The prospect of another civil war thus became imminent. Its approach put an end to dissensions in the army and convinced the officers, if they had not so believed before, that the view of Charles' character taken by the Agitators was correct. After the suppression of the mutiny the army promised to submit to the control of Parliament. As danger from the Scots increased, dissensions within its ranks disappeared. There was great searching of heart to find, if possible, the cause of the new misfortunes. At an army prayer-meeting held at Windsor, April, 1648, there was a remarkable exhibition of religious fervor. It ended with the adoption of a

[1] Reprinted in its final form by Gardiner, Constitutional Documents *etc.*, pp. 270–282.

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resolution not only to fight the Scots, but, "if ever the Lord brought us back again in peace, to call Charles Stuart, that man of blood, to an account for the blood he had shed and mischief he had done to his utmost against the Lord's cause and people in these poor nations."[1] This was a consummation which the Levellers had long desired. From the spring of 1648 the progress of events leading to the execution of the King was steady and direct. The influence of the army became decisive. The council of officers continued its sessions. The officers also resumed their seats in Parliament and began to control its deliberations. Then came the second civil war and the triumph over the Scots. That made the army supreme. Its republicanism could now overcome all opposition. Events hastened on the trial and execution of the King. But even before the trial began the Commons declared "that the people are under God the original of all just power" and "that the Commons of England in Parliament assembled, being chosen by and representing the people, have the supreme power in this nation."

But the influence of ancient customs and institutions was so great, the enemies foreign and domestic which threatened the Commonwealth were so numerous, that compromises were necessary. Though democratic ideas continued as strong as ever in the army and throughout the country, the theorist had to give way to the man of tact and energy. Therefore after the Commonwealth was established the Levellers found themselves as far as ever from the realization of their ideals. All hope that the Agreement of the People would become the basis of the English government had to be abandoned when the Long Parliament was dissolved in 1653. The subsequent restlessness of the Levellers only forced Cromwell to resort to more severe measures of repression, and thereby to deviate further from the type of government he would have preferred.[2]

[1] Carlyle, Oliver Cromwell's Letters and Speeches, Harper's Edition, I, 256.

[2] One can see in Cromwell's letters and speeches how firmly he believed in toleration, and yet how difficult it was, amid so many jarring sects, to maintain it. See especially his letter to the governor of Edinburgh Castle (1650) and his speeches to the first and second Parliaments of the Protectorate. Carlyle, I, 479, 482; II, 88, 109, 138, 219.

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About the time of the execution of the King appeared the first group of Milton's political pamphlets. They at once proved him to be the greatest defender of the Commonwealth. Next to Cromwell he was the best exponent of its spirit. To the theory of the divine origin of the kingship he opposed that of the divine origin of the popular will. This, he argued, found its original expression in the social compact by which, after the period of freedom that preceded the fall, governments were instituted. By mutual agreement towns, cities and commonwealths were founded, laws passed and magistrates appointed.[1] The law then, because it is the expression of the popular will, must be supreme. King and people are subject to it. The office of the monarch exists for the benefit of the nation. Should its occupant attempt to violate the laws, he may be restrained by an oath, which is a special covenant between him and the people. Even though he be not a tyrant, they may, if they choose, remove him from the throne and elect another; much more is this the right of the people, if their king be a tyrant. Upon this principle he defended the execution of Charles I.[2] In Milton's opinion governments, except in an undefined sense which applies to the whole creation, are of human origin. An unjust government, he said, was in no sense God-ordained. Hence, when he came to consider the religious question, he advocated the total separation of church from state.[3] He would exclude only the papists from toleration, because he thought them more truly a political faction than a church. With that exception his ideas agreed entirely with those of Williams. When, therefore, during the Commonwealth, the perplexing question arose whether or not there should be a state church, Milton's voice was raised in the negative. Vane agreed with him and labored for the same end. Cromwell sympathized with their opinions, but could not see his way clear to adopt them in practice. In 1652, when the question was pending before Parlia-

[1] Milton's best statement of the theory of compact is in the Tenure of Kings and Magistrates.

[2] See Milton's Eikonoklastes and his two Defences of the People of England.

[3] See the Second Defence of the People of England, and the pamphlets written during his later life.

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ment, the defenders of separation received important aid from the apostle of the idea in New England.[1]

Early in 1652 Roger Williams, accompanied by Clarke, the Baptist preacher, went to England on business connected with the interests of Rhode Island. He remained abroad two years. During that time he lived on the most intimate terms with Sir Henry Vane, saw a great deal of Milton, had interviews with Cromwell and held intercourse with many other leaders of the Commonwealth.[2] When he arrived in England, Rev. John Owen, Cromwell's favorite preacher, and a number of other prominent clergymen were trying to induce Parliament to pass a bill for supplying the whole Commonwealth with an able preaching ministry. A list of essential articles of belief had been prepared, which the state was to impose upon all who received livings. The government was also to undertake a scheme for propagating the gospel throughout the colonies.[3] If these measures were carried out, the state-church system would be revived, though in a form less strict than that which the Presbyterians desired. Williams at once threw himself into the controversy. Among the many petitions against the scheme which were presented to the committee having the bill in charge, was one signed by Major Butler and others. For the edition of this which was published, Williams wrote a preface and extended comments, setting forth his theory of toleration and of the secular nature of government.[4] The readmission of the Jews into England had been proposed, and Williams was very emphatic in its favor. At first it was thought that Cromwell favored the voluntary system of religion. Williams, encouraged by this impression to hope for success, published his *Bloody Tenent yet more Bloody.*

[1] See especially Masson, Life and Times of Milton, IV, 387–398.

[2] The proof of this may be found in the letters written home by Williams during his absence. Most of them are addressed to John Winthrop, Jr. See also his letters to Mrs. Sadlier, daughter of Sir Edward Coke. All are in the Publications of the Narragansett Club, vol. vi.

[3] The Society for the Propagation of the Gospel had been founded in 1649.

[4] See the Fourth Paper presented by Major Butler to the Honorable Committee of Parliament for the Propagation of the Gospel, with a testimony to the said Fourth Paper, by way of explanation upon the Four Proposals of it, by R. W. This was issued in March, 1652.

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To this he prefixed an address to Parliament, urging it, in view of the great things it had done, its own dangers and the fate of the old ecclesiastical system, to strike down all images and maintain mercy, justice and freedom of conscience. In another pamphlet[1] he attacked the tithe system. Clarke also issued his *Ill News from New England*, in which he described the persecution which he and Obadiah Holmes had been forced to endure in Massachusetts. Both the pamphlets and letters of Williams show that during the whole of 1652 he bore an active part in the agitation for complete freedom of worship in England. The committee, however, made little progress with the subject, and before any conclusion was reached the Long Parliament was dissolved (April 30, 1653) and the Protectorate established. In 1654 Williams returned to America, leaving Milton and Vane to defend the views which all three held in common.

Cromwell now inaugurated his plan of modified toleration, which continued in force till the eve of the Restoration. In the Instrument of Government it was provided that the worship of all who professed "faith in God by Jesus Christ" should be tolerated, if they did not use this freedom "to the civil injury of others and the disturbance of the public peace." Liberty was "not to be extended to popery, prelacy or the practice of licentiousness."[2] Though the restrictions on freedom of worship embodied in the Humble Petition and Advice,[3] which went into force in 1657, were more numerous than those just mentioned, there is no evidence that there was any change of policy. Strict principles were not followed. The course adopted was a compromise between Cromwell's desires and the necessity of suppressing opposition to a new government which was beset by difficulties on all sides. Newspapers were strictly controlled, but the issue of controversial pamphlets was practically free from restraint. Toleration of religious sects was so much greater than in Massachusetts, that Williams said New England was becoming old while Old England was becoming new.[4]

[1] The Hireling Ministry none of Christ's.

[2] Gardiner, Documents, p. 324. [3] *Ibid.* p. 341; see section xi.

[4] For the character and results of Cromwell's policy in this matter, see Masson, V. pp. 51–86.

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Before Cromwell's death Vane issued his most important writings in favor of democratic government and toleration.[1] In one he proposed the adoption of a written constitution. His Fifth Monarchy ideas, however, brought him into conflict with Cromwell. His uncompromising democracy led him to oppose all the later policy of the Protectorate, and brought him into prison and finally to the scaffold. After Cromwell's death, Milton by his later pamphlets[2] tried to check the growth of public sentiment in favor of the restoration of the monarchy and the church. In these writings he gave utterance to his matured views in support of democratic government and church disestablishment. In 1656 Harrington issued his *Oceana*, followed by other works between that date and 1660.[3] In these he expounded the theory of a constitutional republic, wherein political power should be derived from the consent of the governed and should be perpetuated by elections with the ballot and by rotation in office. Religious freedom should be granted to all except Jews and Roman Catholics. The Rota Club was organized to discuss and extend these views.

But the opposite tendency soon became so strong that republican writers could no longer find a hearing. The Presbyterians, who had joined the revolt against Charles I, began soon after the death of Cromwell to clamor for the restoration of the monarchy with the limitations which had been imposed upon it previous to the outbreak of the civil war.[4] So far as England was concerned, democratic theories must wait for other times and other defenders. Still Puritan ideas had become too firmly established in the English mind to be eradicated. Even within

[1] See A Retired Man's Meditations (1655) and A Healing Question Propounded and Resolved (1656).

[2] A Treatise of Civil Power in Ecclesiastical Causes (1659), and the Ready and Easy Way to Establish a Free Commonwealth (1660).

[3] Harrington's Works, edited by Toland, 1737.

[4] See Prynne's later pamphlets. Also Baxter's suggestive work, The Holy Commonwealth, written in reply to Harrington (1659). The influence of the reaction upon Baxter can be most clearly seen. In his Christian Politics, published in 1673, he argued that all civil power comes from God. By compact the people may determine the number of their rulers, to a certain extent limit the exercise of their power, and name the person or family that shall rule. The duty of obedience was most strongly enforced. See Baxter's Practical Works, VI, p. 23 *et seq.*

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the Anglican church the doctrine of natural right and social compact had been proclaimed by Hooker. Hales, Chillingworth, Fuller, Jeremy Taylor had preached toleration upon the broadest grounds. Falkland had been the representative of latitudinarian opinions in the Long Parliament. During the period of the Restoration both the Puritans and the liberal churchmen contended for toleration. When the Commonwealth fell, John Locke, himself the son of Puritan parents, had completed his education at Oxford. In him the ideas and tendencies of the Puritan united with those of the latitudinarian of the English church. He thus became the representative of the epoch of the English Revolution, the exponent of the Whig theory of compact and the defender of religious toleration. When newly interpreted by Samuel Adams and Rousseau, Locke's exposition of the ideas which he had inherited furnished an important impulse toward both the American and the French Revolution. Though the Puritans and their descendants have never been more than a party in England and though circumstances have greatly changed, the nation in its history has now reached a point where it is necessary to discuss the very questions which they tried to answer. It is not without interest to compare the arguments of the seventeenth century for and against tithes, disestablishment and the continuance of the House of Lords, with those uttered by statesmen now.

If this survey of the development of political thought among the Puritans be truthful, one must conclude that the modern revolutionary movement began not in the eighteenth, but in the sixteenth century. Protestantism, especially in the form which Calvin gave to it, was hostile to absolutism both in church and in state, and carried with it a moral vigor without which the mere revival of classical learning would have been powerless to effect deep social changes. Calvin built upon the foundations laid by Augustine and the earlier reformers, but he gave to his work a connection and logical consistency in all its parts which had a profound influence upon the adherents of his doctrines. Calvinism, in spite of the aristocratic character which it temporarily assumed, meant democracy in church government. It

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meant more than that, for its aim was to make society in all its parts conform to a religious ideal. Thus only would the perfect commonwealth, the city of God on earth, be realized and established. Ideas derived from the organization of the church, the thought that human distinctions disappear before the sovereignty of God, gave color also to the political views of the Calvinists. They did not need to search the records of antiquity to find communities wherein the theory of human equality was approximately realized. The local church furnished a much better model than any Greek state. The theory upon which it was based was easily transferred to the domain of politics. Wherever the Calvinists appeared as a political party, this transfer was more or less fully made. Their attitude was not due solely to the fact that the monarchy supported Catholicism, or what was considered to be in alliance with it. It was the result of a positive force, which impelled Calvinists to be advocates of popular government. Among the English Puritans this tendency showed itself with various degrees of strength, from the ideas of elective monarchy with a supreme legislature, held by the Presbyterians of the Long Parliament, to the extreme republicanism of the Levellers.

In the English colonies the development of Puritanism was on the whole normal. It was not obstructed by old institutions, and frontier life was favorable to its democratic tendencies. At first we see aristocratic institutions of some strength maintained. As at Geneva, these were defended by the argument that without them the whole ecclesiastical and political system would fall before the attacks of its enemies. This was the excuse which they offered for persecution. Still the men who defended Puritanism, often by selfish and brutal measures, reared, even in Massachusetts, a structure which was essentially democratic. The town meeting differed much from the parish government of England. When demands came from the towns for an increased share in the government of the commonwealth, strenuous opposition was not made by the leaders, except to propositions which seemed inconsistent with steady administration and the maintenance of a consistent policy. Only attempts

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to introduce religious innovations called forth passionate resistance. The fear that these might be forced upon the colony by England led to the growth in Massachusetts of a theory of relations to the home government which was strongly separatist in its character. It too was couched in the democratic formulas, which were becoming so popular, respecting agreement and contract. This theory the other New England colonies adopted, because in their social system and the objects they were seeking, they sufficiently resembled Massachusetts, though in so many ways they differed from the mother country. During the early part of the sixteenth century Massachusetts may be said to have constituted the right or conservative wing of Puritanism in America. But with the overthrow of her exclusive religious system that character passed away, and she assumed the purely democratic form which had existed almost from the first in the other New England colonies. Her struggle with the English authorities left also within her a specially strong aptitude for the democratic movement of the eighteenth century.

But it should never be forgotten that the Puritan's conception of democracy was far different from that held by many of its later defenders. There was nothing vulgar about it. The Puritans did not believe that wisdom would be discovered by the counting of heads. They talked little about equality, except the equality of the elect before God. The thought of duty was more often in their minds than that of right. They did not claim for all an equal share of political power. They knew the value of character and intelligence, and were resolved that nothing should rob these of their just influence in a well-ordered commonwealth. They identified liberty with virtue. "Know," says Milton in one of his loftiest passages, "that to be free is the same thing as to be pious, to be wise, to be temperate and just, to be frugal and abstinent, and, lastly, to be magnanimous and brave; so to be the opposite of all these is the same as to be a slave." He who believes implicitly in the wisdom of the multitude, or who places his confidence chiefly in forms of social organization, can have little sympathy with sentiments like these.

HERBERT L. OSGOOD.

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SOUTH CAROLINA DURING THE NULLIFICATION STRUGGLE.

TO understand the state of public sentiment in South Carolina at the time of the nullification struggle, it is necessary to go back more than sixty years and to appreciate conditions of society which have long since passed away. But even at that time, South Carolina was peculiarly old-fashioned, as compared with the rest of the country. A responsive chord in the breast of its dominant class was struck by the high-flown, romantic chivalry of Sir Walter Scott's works, and we find the newspapers of the time filled with their praises. Duelling, a practice which the North had never very generally tolerated, might almost be said to have been an institution of South Carolina. The admiration of the people for physical bravery was extreme, and, especially among the younger men, it led to a reckless contempt of danger, often amounting to foolhardiness. Like the barons of old, the governing class scorned all vulgar occupation; the public service or a professional career or the superintendency of a large landed estate was the only vocation worthy of their powers. As a natural accompaniment to this semi-barbaric life, went an extreme local pride, which was perhaps the Carolinian's strongest characteristic. The boy in Charleston who was asked what his country was, answered "South Carolina," not because he had been taught a defiance or dislike of the United States, but simply because his knowledge of his country did not extend beyond a knowledge of his state. Not only the state but also, in a less degree, each particular portion of it was the object of this devotion. A citizen was wont to boast first of being a Carolinian, and after that of coming from the Colleton or the Pendleton or the Greenville district, as the case might be. Yet, at the time when this sentiment had reached its culminating point in the nullification of a law of the

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United States, there was a strong party, many of whose members were men of the first rank, who, while they yielded to none in their devotion to South Carolina and were wedded to her by the strongest ties, nevertheless acknowledged a sovereign superior to her and claiming a higher allegiance.

The spirit of nullification was in America when the federal government was formed. It found an important expression in the Virginia and Kentucky Resolutions in 1798, and again in the Hartford Convention in 1814. The beginning of the active agitation which subsequently led to the practical demonstration of the principle in South Carolina dates from 1822–23. The protective tariff bill introduced in the national House of Representatives at that time by Mr. Todd, chairman of the committee on manufactures, excited much comment and almost universal hostility among the people of South Carolina. They regarded it as class legislation — as the taxing of one portion of the people for the benefit of another portion — and they opposed it accordingly. The opposition was thus based principally upon economic grounds, but the constitutionality of the pending bill was generally denied.

The first important move against the Todd bill was made in January, 1824, at a public meeting held in Charleston, when a formal remonstrance against its passage was put forth. This remonstrance was drawn up by a committee of four, two of whom, at least, William Drayton and Hugh Legaré, were firm supporters of the Union; but, while it was generally indorsed by public meetings in other parts of the state, the conservative constitutional views it enunciated were probably not concurred in by a majority of the people, although its economic and Union sentiments unquestionably received more widespread approval. It began by a recital of the alarm with which the people of the state had witnessed the efforts of the general government to levy duties on imports, for the purpose of protecting domestic industries. The people of South Carolina regarded such duties as calculated to injure the agricultural states, and they deprecated the violent diversion of capital from natural into artificial channels. Attention was called to the decline in

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the prosperity of the state since the passage of the last tariff act, and it was solemnly declared that the bill then before Congress not only was unjust in its provisions, but was a violation of the spirit of the federal compact, although "not absolutely unconstitutional." The remonstrance closed by expressing a fear that the passage of the bill might lead to division among the people of the United States, — a possibility which South Carolina contemplated with horror. There were two small parties which did not subscribe in any way to this remonstrance. One was the party of protectionists, never conspicuous and never of large proportions, although boasting several members of unusual ability; the other was the party, now showing signs of increasing strength, which thought it saw in the tariff bill a malicious attack upon the rights of the South, and which regarded a dissolution of the Union as a thing not altogether undesirable, if matters were arranged contrary to the will of the state.

That the remonstrance did not reflect the constitutional views of the majority was indicated by the joint resolutions of the legislature the following year, after the tariff bill had become a law, wherein it was declared absolutely that such legislation was an unconstitutional exercise of power on the part of Congress. The bill had not, however, passed Congress until it had undergone considerable modification, and many in South Carolina who had opposed the bill accepted the law, as not entirely obnoxious to them. Everything that could be done to prevent its passage had been done; it had nevertheless become a law, and the legislature had solemnly declared its disapproval. A state of quiescence followed and no attempt was made at actual resistance to the law. If the friends of the protective principle had rested satisfied with what they had gained, perhaps the history of nullification need never have been written. But the quiescence was sullen, and there were signs that if it were disturbed, it would give place to a temper more dangerous than had yet been shown.

The disturbance came in the shape of the woollens bill which was introduced in Congress in 1827, and the dangerous state of

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feeling in South Carolina became evident at once. On the 2d of July of that year a meeting was held at Columbia, presided over by Governor Taylor. The governor was not an extreme man, but the resolutions which were adopted and the principal speech that was made came from Dr. Cooper, a strong advocate of state sovereignty. He was an Englishman, who had come to America some years before this and had been appointed president of the South Carolina College. The respect for his scholarship extended far beyond the limits of his state, and especially had his arguments against a protective tariff obtained a wide circulation, one pamphlet in particular having been reprinted for general distribution by the New York *Evening Post*. His opposition had hitherto been based upon economic and constitutional grounds; he now gave utterance to sentiments of a more inflammatory character. The resolutions set forth at length the economic arguments against the protective principle, denied the right of Congress to pass taxation laws which fostered one branch of industry at the expense of another, and declared, further, that such proceedings were calculated to "bring on the dangerous inquiry," in what matter the Southern states were "benefited by the Union." Cooper's speech was more exhaustive economically and more radical constitutionally than the resolutions themselves.

> I have said [he cried] that we shall ere long be compelled to calculate the value of our Union, and to inquire of what use to us is this most unequal alliance. . . . Is it worth our while to continue this Union of states, where the North demands to be our masters and we are required to be their tributaries? . . . The question, however, is fast approaching to the alternative of submission or separation.

The resolutions were transmitted to the legislatures of the other Southern states and laid before the legislature of South Carolina, but their disunion suggestions met with no official response.

Early in 1828 the woollens bill became a law. The wild rage of its opponents in South Carolina found a fit expression, about three weeks after its promulgation, in the famous address of the citizens of the Colleton district. Coming after the Columbia

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resolutions and being of a more violent tone, it marks a distinct stage in the advance toward nullification. The Columbia resolutions hinted at the desirability of secession; the Colleton address boldly advocated resistance to the law.

> According to our humble conception [it said], the constitutional grounds upon which our fathers resisted the pretensions of the British crown are weak and trivial, when compared with those upon which we now stand;

and calling upon the memory of the men of the Revolution, and in their name, it excitedly urged immediate and forcible action. The address further requested Governor Taylor to call a special session of the legislature, and proposed a public dinner to Mr. McDuffie, the representative of the Colleton district in Congress. The governor refused to call a special session, saying that there was not sufficient unanimity of desire for it among the people, and that the legislature about to be elected, coming, as it would, fresh from the people, with the tariff as the issue before them, would be better able than the old legislature to interpret the popular will. The dinner to Mr. McDuffie, however, came off according to the programme, and his speech was extremely violent in tone. A public meeting in Baltimore, held shortly afterwards, declared both this speech and the Colleton address "hostile to the constitution, treasonable in their spirit and tending to rebellion." The Union party of South Carolina not only indorsed this opinion, but accused the states-rights party of a desire to destroy the Union and to raise a monarchy upon the ruins.

The antagonism between the two parties was becoming intenser every day. Their difference was no ordinary difference. Each regarded the other as traitorous. The Carolinian was a man of intense convictions and impatient of opposition, and while it is doubtless true that the party which afterward became known as the nullifiers was the more violent and intolerant of the two, the Unionists, on their side, were fully prepared to support their opinions at all hazards.[1] On the 4th of August,

[1] An indication of the prevalent feeling may be found in the public performance at Beaufort of the "Disunion Drama," and in the adoption by the states-rights party of resolutions designed to compel the press "to speak the language of the South."

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at Columbia, a public meeting promulgated an anti-tariff address, which advocated non-consumption of dutiable articles. The opening clause, expressing fidelity to the Union, was carried by a majority of two votes only, and Governor Taylor, Unionist as he was, characterized the tariff law as a "deliberate, palpable and dangerous exercise of other powers not granted by the compact." David R. Williams, who had at one time been governor of the state, and whom we find subsequently spoken of as a "staunch nullifier," headed the more moderate faction of the states-rights party, and endeavored to arouse in them some idea of the dangers they were rushing into.

> We were not sparing of our censures [he wrote] when New England meditated resistance to the embargo. . . . There was not a man among us who did not pronounce the Hartford Convention a traitorous association; indisputably it becomes us to look well to it, that we do not tread in the very footsteps which we have denounced with so much bitterness.

He deprecated any hasty action by the legislature and pointed out the extreme folly of forcible resistance. The Unionists boldly charged that during the last session of Congress, certain Southern members, including representatives of South Carolina, had planned in Washington a conspiracy for the purpose of dissolving the Union. The necessity for strenuous opposition was keenly felt by the Unionists, and accordingly in Charleston, the centre of their party, a "people's union" ticket was put in the field, with an address strongly espousing the principles of union and peace. This address, dignified and patriotic in tone, was signed by Thomas Lowndes, S. Magwood, James Lamb, Richard Cunningham, William Lance, B. F. Dunkin, William Newton, Benjamim F. Hunt, J. Harleston Read, Elias Horry, Theodore Gaillard Hunt, Dr. J. W. Schmidt, Alexander Black, William Aiken, Hugh S. Legaré and L. H. Kennedy. These, with several others, may be considered as the leaders of the Union party in Charleston. They organized their followers and advocated their views often at the risk of personal violence to themselves. All of them were men of influence and standing, and several of brilliancy and genius.

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Nevertheless, as matters now stood, the advantage was with the states-rights party, because it was the more united of the two. It hesitated upon the brink of nullification. Some of its members were in favor of immediate resistance, others favored delay, that opportunity might be allowed Congress for more favorable action. This was the only important point of difference in its ranks. The Union party, on the other hand, was less closely bound together. The protectionist faction could not be brought to follow the free-trade faction; they differed too radically. It is true, the protectionists were not numerous, but their numbers were not contemptible, and their entire co-operation was necessary, if the purposes of the nullifiers were to be thwarted. Again, there were material differences among the Unionists on the constitutional question, some believing a protective tariff absolutely unconstitutional, others holding it a violation merely of the spirit of the constitution, and others maintaining its entire constitutionality. The states-rights party were unwavering in their hatred of the tariff, their belief in its utter unconstitutionality and their determination to oppose it. They were a distinct party. Their opponents were, properly speaking, a mere opposition.

Matters were in a state which boded no good, when the legislature met for the session of 1828–29. Mr. Legaré introduced in the House of Representatives resolutions which assumed the unconstitutionality of protective duties and declared the tariff of 1828 unjust and oppressive, but declared that the people of the state were not prepared to come into open and violent collision with their fellow-citizens before time was given for further argument upon the subject, or until every effort to obtain redress through the instrumentality of Congress had failed. He proposed that a solemn protest against the principles of the tariff should be recorded in the journals of Congress at Washington, but that the state convention, which was now being urged by the states-rights party, should not be called, and that no acts to nullify the laws of the United States should be passed. In the state Senate, Mr. Grimke, a powerful Unionist, introduced resolutions declaring the tariff law of 1828 not a

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"palpable breach of the constitution"; but reciting that since the state had declared the act unconstitutional, as a "misconstruction or abuse of power," she owed it to her sense of dignity to follow the example set in 1798, by applying to her sister states to unite with her in asking Congress for a "declaratory or restrictive" amendment. The resolutions further declared that no measures ought to be taken which were based upon her sovereign rights. Both sets of resolutions failed. The House finally voted that an appeal be made to the other states for assistance in forcing a repeal of the tariff laws, and, if they were not repealed, that measures be devised for arresting the evil, according to the Kentucky Resolutions of 1798; and the Senate resolved that the tariff laws should be resisted, and that other states should be invited to co-operate in measures for that purpose. The new governor, Miller, in his inaugural address, said: "In swearing to support the constitution of the United States, I do not regard myself as acknowledging allegiance to an unconstitutional act of Congress."

It was charged by the opposition, that certain disappointed and ambitious men were sowing the seeds of disunion with a view to the erection of a distinct sovereignty, which might satisfy the longing for power and dignities which the Union failed to afford them. Unquestionably, such an idea was far from the thoughts of Calhoun; but the conduct and the utterances of James Hamilton, Jr., who was soon to become governor, of McDuffie and Hayne, of Pinckney, the editor of the *Mercury*, the organ of the nullifiers, of Barnwell Smith, one of their favorite orators, and of others of similar stamp, were certainly of a character to confirm the suspicion.

> The stars and garters of nobility [said the Charleston *City Gazette*] are glittering in the perspective. The bond of our Union is to be dissolved, to gratify the pride, vanity and deep-seated ambition of a few disappointed individuals.

The members of the Union party were scattered pretty evenly over the whole state, and were of respectable numbers nearly everywhere. Greenville, in the mountainous district near the

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North Carolina border, was conspicuous as a loyal community. The city of Charleston, however, was the principal stronghold of the Union party. It was there that the Lowndeses lived, and Pringle and Grimke and Pettigru and the rest of the state leaders, and there William Drayton, the eloquent member of Congress, belonged. A speech of the last-mentioned gentleman at a dinner in Charleston, in July, 1830, is especially noteworthy, as the utterance of a certain form of political belief which had many adherents then and more afterwards. Nullification had now become a regular political issue. Drayton declared that he could not see any distinction between the nullification by a state of a law of Congress and a separation of that state from the Union. He conceded the right of a state to secede, but he thought it absurd for a state to belong to the Union and not be bound by federal laws, and he thought South Carolina would suffer more by separation than by enduring the law she thought so inimical to her interests. Of a more positive tone was the letter of another Charlestonian, Judge Johnson, of the Supreme Court of the United States, declining an invitation to speak at a dinner at Columbia. He thought "that Carolina had not only not been injured, but really benefited to many thousands by the tariff," and that no state in the Union was more deeply interested in maintaining its principles; that nullification was folly, and the peaceable course projected under it all a "silly and wicked delusion," growing out of "a deliberate conspiracy against the Union," which had been steadily working for six years, and that the proposed convention was "the grand end and aim and agent of that conspiracy."

In September of 1830 the Unionists in Charleston elected their candidate for intendant, or mayor, and their ticket was generally successful. The legislative session of the following winter was attended with great excitement. The states-rights party elected James Hamilton, Jr., governor, but their proposition for a state convention failed to get the necessary two-thirds vote in its favor. There never was any doubt that the convention, if called, would result, as it subsequently did, in the passage of a nullifying ordinance. This was fully recognized by

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the anti-nullifiers, and they took the ground that the call of a convention, as a preparatory and preliminary measure for carrying into effect a nullification of the laws of the United States, would be "revolutionary and unconstitutional."

Early in 1831, the states-rights ball was held in Charleston. Beaufort had had its "Disunion Drama," disunion dinners had been eaten in almost every hamlet in the state; it was only proper, under the circumstances, that the nullifiers should have a dance. Though the incident was the subject of flippant comment,[1] yet the fact of a states-rights ball was pregnant with meaning. Any one who has lived in the South at a time of great political excitement is painfully aware how blended its politics and society become. The people feel strongly and make little allowance for difference of opinion. Their political opponents are their enemies, and the two parties cannot make merry together. A large ball thus partakes of the nature of a political demonstration. The parties in South Carolina were arrayed against one another publicly and privately.

The theory of nullification, as set forth by Calhoun, even now, after it has received the benefit of careful study and able expounding by historians, is not clear. He always avowed a loyalty to the Union, but the arguments by which he sought to demonstrate that nullification was compatible with the existence of the Union, and indeed a guarantee of its perpetuity, did not occasion much solicitude to the majority of his party. But no one at the North understood the fallacy of his reasoning or the real end and aim of his party more clearly than did the Union men of his state. They reasoned simply. Said the Camden, S. C., *Gazette:*

> We know of only two ways, under our government, to get rid of obnoxious legislation. We must convince a majority of the nation that a given enactment is wrong and have it repealed in the form prescribed by the constitution, or resist it extra-constitutionally by the sword. . . .

[1] "Everything," said the *National Intelligencer*, in its account of the affair, "was dramatic and poetical and emblematic. . . . We trust that there will be an *anti*-nullification ball, and that the whole dispute will be carried on, for the future, by cotillions, waltzes and gallopades, by 'woaltas high and swift corantos.' The parties should exchange — invitations."

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But this everlasting cant of devotion to the Union, accompanied by a recommendation to do those acts that must necessarily destroy it, is beyond patient endurance from a people not absolutely confined in their own mad-houses.

The general belief of the larger portion of the Unionists was well set forth at a loyal meeting in the disloyal Colleton district. The tariff act of 1828, they thought, was "unequal and unjust" and unconstitutional, and, while they opposed it, it was

Resolved, That we do not consider the right of a state to "nullify," or forcibly arrest and make void a law of Congress, as a constitutional right, but as a right of sovereignty paramount to the constitution; that although such a right might be exercised by a state in its sovereign capacity, after it shall have recalled to itself those powers which it has delegated to the federal government and thus have made itself (what no state now is) a perfect sovereign and independent nation, yet such a power evidently cannot be rightfully exercised, so long as a state continues a member of the Union and avails itself of its laws.

The year closed less promisingly than it had opened. A nullifier was elected intendant of Charleston, and the states-rights party were more successful than they had ever been before. That they were thoroughly in earnest and meant to do all that they had threatened, became very evident. In August, 1831, in Beaufort, they had requested that the governor should issue a proclamation, setting aside a day for fasting, humiliation and prayer to God for the removal of the national oppression under which they suffered,—a request which the governor promised to comply with. In the latter part of the year the test case of the constitutionality of the tariff was tried. Two members of the Charleston bar, E. Holmes and Alexander Mazyek, imported through a mercantile house a bale of blue plains. For the payment of the duty on the bale they gave three several bonds, and payment being refused, suit was brought by the United States against the bonds. Frost, the former United States district attorney, had refused to bring the suit, had been promptly removed by President Jackson and had been much feasted by the states-rights party. The case came up before Judge Lee in September, in the United States district court, and the new

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district attorney, Gilchrist, was assisted by Pettigru. Holmes himself, assisted by McDuffie, argued for the defendants. The test question was, whether the court would receive evidence other than such as related to the mere execution of the bonds of the defendants. The court's answer was in the negative. The effect of this decision was to deny that the unconstitutional character of the tariff act of 1828 could be carried before a jury in the federal court. To carry it before a South Carolina jury was the object sought, and the verdict of such a jury, if it could have been obtained, would probably have been satisfactory to the adversaries of the law. The scheme was an ingenious one, and its failure was used as an additional argument for immediate nullification.[1]

With the exception of the year when Fort Sumter was fired upon, there never was a time in the history of South Carolina more fraught with exciting events than 1832. The palmetto cockade, the emblem of the nullifiers, might be met with everywhere, and the number of its wearers was increasing. For the first time it began to be evident that the efforts of the Unionists to stay the tide which was rushing madly towards nullification would be unavailing; nevertheless they stood their ground, determined never to give up the fight as long as a vestige of hope remained to them. In the heat of the contest they accused their opponents of seeking aid from England. "Fellow-citizens," says the pamphlet containing the proceedings of a meeting in the Chester district early in 1832,

> your country is in danger and the subject need be no longer disguised. It is apparent that there are men in the midst of us who are urging the state into a hostile contest with our own government, and who are looking to *England* for assistance to rescue them from the dilemma consequent upon such a contest.

The Alabama *Gazette* further charged that an emissary of the states-rights party had proceeded to England, to arrange for

[1] The last record found of this celebrated "bond case" shows that the United States, being unable to collect its money, levied upon a house belonging to Holmes

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should throw herself upon her sovereignty; and it was very generally believed that the Columbia *Telescope*, one of the chief organs of the nullifiers, was under the influence of certain turbulent Englishmen. The election in Charleston this year was exciting and riotous, and fraudulent practices were notoriously resorted to by both parties. Pinckney, the candidate of the nullifiers, was again elected intendant.

In July, 1832, a further tariff bill had been passed by Congress, and in September the Unionists held a convention at Columbia. The leading spirit of the meeting was Pettigru, and the address to the people of the state was drawn up by him. At a time of intense excitement, when both parties were accusing each other of crimes which neither was so blind as to contemplate committing, this address, nevertheless, held a language temperate and reasonable. No argument on record at the time, and few, if any, of those which have been made since, have contained a more masterly refutation of the doctrine of nullification. The address began by declaring that the people of the state were substantially united in their opposition to the tariff law, but differed only as to the best means to be employed to accomplish its repeal. Nullification, as a peaceful remedy, must be a mere suit at law, and a weak and inefficient measure. As a forcible interposition of the sovereign power of the state, it must be an infraction of the constitution and the beginning of a revolution. The object of the constitution was to preserve and protect the union of the states, and, if a state could nullify an act of Congress, the federal government must share the fate of the old Confederation. It was monstrous to suppose that the framers of the constitution did not invest the general government with full power to execute its own laws. A dissolution of the Union was one of the least evils which would result from nullification. A peaceable secession from the Union might *possibly* take place, but nullification *must* produce a collision between the authorities of the state and those of the Union. Virginia, North Carolina, Georgia, Tennessee, Alabama and Mississippi were equally concerned with South Carolina in a repeal of the obnox-

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ious law. Therefore, it was proposed that there be a convention of these states, to deliberate upon measures for redress. There was every argument in favor of such a convention; few could be alleged against it. The same blow which would destroy the Union would level to the ground the defences of liberty.

Such was the sense of the address, and resolutions embodying its salient features were immediately adopted. Its effect was such as to warrant the Unionists in feeling some encouragement, but the state had now reached a stage verging upon civil war between its parties. "Would it not be well to lay in provisions for a siege?" wrote a nullification lady in the country to her husband in the legislature;

> our castle will be well filled in case of an attack. I have offered rooms to all our nearest friends. I must furnish rice and we are to get beef from Woodstock. . . . It is proposed to have some of our windows with iron bars. . . . Stand by your country and I will never desert you.

And on the other side, the Greenville *Mountaineer* declared that the people of that section were ready to march at a moment's warning in defence of the authority of the national government.

In August, 1832, Drayton had issued an address to the people of Charleston, entreating them to submit to the laws of the Union, and the remarkable address of Thomas Grimke came just after the nullification ordinance had passed the convention. To us who read it now it has a prophetic ring.

> The ordinance passed by your convention at Columbia a few days since is the grave, not the bridal chamber of liberty. . . . It will be regarded even in the South Carolina of future years with grief and mortification. . . . Be not deceived. The governor has applied for a garrison of two thousand men for Charleston and for an additional force of ten thousand men, in direct violation of the constitution of the Union which still binds you and which prohibits a state from "keeping troops or ships of war in time of peace." . . . The world may be called upon to gaze on the blockade of your coast, on the alternate execution of traitors to the state and traitors to the Union, on the battle-field of brothers and the conflagration of your towns; *but to that world it will be the history of a rebellious province, not of an independent nation!*

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It is not within the scope of this paper to discuss the ordinance of nullification or the laws passed to carry it into effect. These are matters of common history. A fact, however, that historians have failed to lay any stress upon, and that nevertheless deserves some notice, is the holding of a state convention of the Union party of South Carolina immediately after the nullification convention had completed its work. It was the last important action of that party in the state. Randell Hunt, who presented the first resolutions, epitomized the views of the convention and the question it should consider in three sentences:

> That the Union party acknowledges no allegiance to any government except that of the United States.
>
> That in referring this resolution to the general committee they be instructed to inquire whether it is not expedient to give a military organization to the Union party throughout the state.
>
> Whether it will not be necessary to call in the assistance of the general government for maintaining the laws of the United States against the arbitrary violence which is threatened by the late convention.

The resolutions which were adopted declared that the ordinance of nullification violated the constitution of the United States and had virtually destroyed the Union, since by preventing the general government from enforcing its laws within the boundaries of the state, it made the state a sovereignty paramount to the United States. They denounced the provisions of the ordinance as tyrannical and oppressive, and the test oath as especially incompatible with civil liberty, in that it disfranchised nearly half the citizens of the state. They pointed scornfully to the project of a standing army in the state. Such an army must necessarily be inadequate to protect the nullification party from the coercive power of the United States; its only object, therefore, must be to tyrannize over Carolina Unionists. They concluded by declaring the continued opposition of the signers to the tariff, and their determination to protect themselves against intolerable oppression. The resolutions were signed by all the members of the convention, about one hundred and eighty in number.

In point of fact, the Unionists were not disposed to favor any

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compromise measures, and looked rather with disfavor upon Mr. Clay's bill, as a measure which was being forced upon the country. Congress, they thought, ought not to modify the tariff until the nullification ordinance had been repealed. But the greater force was with the nullifiers, and the number of their opponents was dwindling. Caught by the enthusiasm and fighting spirit of their neighbors, some of the Unionists joined the nullification military companies that were being organized, and others, seeing the hopelessness of the struggle against a superior force, in sorrow and disgust shook the dust of South Carolina from their feet, preferring to begin life over again in other parts of the South, less charged with sentiments that they believed to be treasonable. The intentions of the dominant party could not be mistaken. Hamilton, the president of the nullification convention, declared that the policy of his party was to allow Congress time to modify the tariff; but if the President of the United States should be given power to coerce South Carolina, he would immediately reassemble the convention and submit to it the question of secession. If peaceable secession should be denied, he was ready to perish in the attempt to secede by force.

Whether, in the light of subsequent events, the compromise tariff bill of Henry Clay was wise or unwise, is not to be considered here; but there can be no question of the correctness of Mr. Justice Lamar's assertion, that its passage "averted the storm and substituted peace for intestine strife." The nullification party could afford to be magnanimous, for it had really won the fight. It had not got all that it had demanded, but it had got more than it had a right to expect. And the Unionist party, crushed and helpless, was only too anxious to bury all feuds. It never was an active force in the state again, but the bold spirit which had actuated its members was manifested later, when the struggle for state sovereignty was more widespread; and some of the most intrepid Union men of the South in the civil war were those who had fled from South Carolina years before, when the nullification party had triumphed.

GAILLARD HUNT.

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THE CONTROL OF NATIONAL EXPENDITURES.

THE general scope and peculiar processes of the United States Treasury Department and the functions and relations of its bureau officers can be clearly understood only by means of the information furnished by the early debates, reports and statutes. Those who a few years ago codified the laws of the United States have caused much confusion on the subject. Failing to take into consideration the fact that many practices had formed and hardened under old laws which themselves had been repealed or abrogated, the revisers have presented a Treasury system which does not and never did in fact exist. Errors of the courts, of the attorneys-general and of the department officials themselves may be traced either to the imperfect description of the system contained in the Revised Statutes, or to that construction of the laws which, though it may be sound enough, was not as a matter of fact the construction of those who built up the Treasury.

Nor have we any critical treatises by which these errors may be corrected and the general ignorance on the subject dispelled. The works of Gillett, of Elmes and of Lamphere[1] contain nothing but dry recitals from the revision — errors and all. They merely arrange in a convenient form its sections relating to the department. The work of Dr. Mayo entitled *The United States Fiscal Department* (Washington, 1847) is the only one which attempts to explain the *raison d'être* of the offices, and the methods which they employ to accomplish their legal purposes. Notwithstanding the many changes made in the system since its publication, this book is the most valuable contribution yet made to an explanation of the complicated machinery of the Treasury. A genuine storehouse of information — the decis-

[1] R. H. Gillett, The Federal Government, 1871. Webster Elmes, The Executive Departments, 1879. George N. Lamphere, The U. S. Government, 1880.

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ions of the comptrollers — is practically barred to the public. The Commissioner of Customs, a comptroller in fact but not in name, has never published any of his adjudications. In 1882 Mr. William Lawrence, then first comptroller, rescued from oblivion a few of his predecessors' important decisions, which, together with his own, were presented to the world in six volumes. But the office dates back to 1789, and many valuable historical papers belonging to it are yet hid in dusty attics of the department. Of the second comptroller's opinions alone have we anything like a complete record. Mr. E. J. Phelps, late minister to England, was the first to recognize the importance of making accessible these executive decisions. As second comptroller, he in 1852 put the decisions of his predecessors in convenient digested form, and this example has been followed by his successors. These digests, which are printed, cover the rulings of the office from its establishment in 1817 down to 1884.

I.

The founders of the department wisely put it under a single head — the Secretary of the Treasury. His duties were admirably prescribed. He was to digest and prepare plans for the improvement and management of the revenue and for the support of the public credit, to prepare and report estimates of the public revenue and the public expenditures, to superintend the collection of the revenue, to decide on the forms of keeping and stating accounts and making returns, and to grant, under certain limitations, all warrants for moneys to be issued from the Treasury. These were his financial duties. He was also directed to make report to either branch of the legislature, in person or in writing, respecting matters referred to him by the Senate or the House, or which appertained to his office, and generally to perform all such services relative to the finances as he should be directed to perform. Though freer than the other heads of departments from the control of the President, and placed in closer relation than they with the legislative branch, it cannot be said that by reason of these distinctions his actions

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have in practice been any more independent, or his influence over Congress in any degree more powerful than theirs.

Concerning the disbursement of moneys granted by Congress, the original act placed about the secretary important limitations. These were necessary concessions to those who insisted upon the establishment of a board to conduct the finances of the country. It was by many thought unsafe to place so much power in the hands of one man. Concession to this idea may have been necessary, but it has given us a slow and tedious method of settling accounts. Of the system put into operation by the act of September 2, 1789, it may justly be said that it is the most admirable contrivance that the mind of man ever conceived to cut down the sums claimed by public creditors to the smallest figures, and then to postpone to the latest possible moment the payment of what has at last been acknowledged due. For one purpose and for one purpose only does it deserve the high eulogies which have been showered upon it. Before the invention of automatic machinery for the same end, it effectually prevented pilfering from the public chest by the high officers put in charge of the nation's funds.

The plan required any one who had a demand against the government to present it to the auditor. If this officer rejected the demand, that was the end of it, unless within six months the claimant appealed to the comptroller, whose decision was final. If, however, the auditor admitted the demand to be valid, he certified the balance to the comptroller, to whom also he sent all the vouchers and papers. Then this officer was permitted to revise the account and finally decide upon the proper amount to be paid. He might, however, disallow the claim altogether. Payment might be arrested at another stage, also, by the refusal of the secretary to issue his warrant on the Treasurer of the United States. This warrant, when issued, was based upon a copy of the comptroller's certificate furnished by the Register of the Treasury, to whom it was required to be addressed. The register also entered the credit on his books and filed the papers. From fear, doubtless, that even after all these precautions, the secretary might make some mistake or

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commit some fraud against the government, it was enacted that the comptroller should "countersign all warrants" drawn by that officer "which shall be warranted by law," and that the treasurer should not disburse the public moneys unless directed by warrants drawn by the secretary, countersigned by the comptroller and recorded by the register. To sum up: the claimant might be dismissed by the auditor; passing him, he might be rejected by the comptroller; obtaining the sanction of both, he might be kept waiting indefinitely by the secretary. But if he did get his money, the public could be assured that it was only by means of the joint action of five distinct offices, and after the matter had passed through seven or eight distinct stages. Such is still the framework of the system.

So far was this arrangement from being adapted to the needs of even a few millions of people, that Hamilton found it necessary at once to set at defiance its cardinal principle. He began immediately to make disbursements from the Treasury *before* the services were performed or the supplies obtained for which the appropriations were designed. Everybody knows, even before reading Hamilton's able defence,[1] that individuals had neither the capital nor the confidence to warrant them in furnishing public supplies on credit. But it is nevertheless true that the first Congress gave to the Secretary of the Treasury no discretion whatever in the disbursement of public moneys. He could not take the initiative. He must wait for a copy of the comptroller's certificate of settlement. He could then arrest payment, but he could neither increase nor decrease the amount. Inasmuch as Hamilton was required to purchase all the supplies of the War Department, the exercise of discretion in paying cash for the goods, instead of obliging contractors to await the adjustment of their accounts, was not simply justified by economy but absolutely compelled by necessity. This, however, only intensified the defectiveness of the first Treasury act. Had Congress conferred the power to make advances it would have surrounded its exercise at the same time with salutary restric-

[1] See Hamilton's Explanation, dated November 11, 1795, in which he repels the "very virulent attack" upon Wolcott and himself. Lodge's Hamilton, VII, 81–110.

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tions. Provision would also have been made for the establishment of proper agencies for the disbursement of the moneys advanced. As a matter of fact, however, advances without warrant of law led to disbursing officers on a like basis. Both have been important factors in our national life. Both have contributed to revolutionize the accounting system which in its origin knew them not.

While Congress was slow to acknowledge either of these extra-legal features of the system, yet it was not ignorant of their existence, and in many indirect ways it gave them its sanction. At the first session of the third Congress Mr. Baldwin made an exhaustive report upon the methods of the Treasury Department.[1] In this he mentions the custom already in vogue of the secretary's giving special directions to the supervisors and collectors of customs to make advances provisionally for certain specified purposes. He adds that "all advances and payments must finally be sanctioned by warrants in order to their legal validity."

> In many cases [he continues] the accounts are settled before any advances are made; but in these instances where advances are unavoidable from the nature of the service, as to the commissioners of loans [who paid the interest on the public debt and pensions to invalids], the contractors and other agents of the War Department, the parties who receive advances are, by the terms of the warrants for advances, held accountable until a final settlement.

Warrants, then, from the first were issued not only to secure payment into or out of the Treasury, for which purpose alone they were designed by the framers of the system, but also to validify such payments or disbursements after they had been made. In this departure the third Congress saw nothing to condemn. Mr. Baldwin, who had taken a prominent part in the organization of the department, pronounced all of its operations very good. The subject of advances was again called to the attention of Congress in 1801 in an admirable report by Mr. Otis, chairman of a committee appointed to examine into the

[1] Doc. no. 68, 3d Congress, 1st session, May 22, 1794; 1 American State Papers (Finance), 281.

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state of the department. The House was informed, among other things, that the nature of public business made it indispensably necessary that advances should precede the services for which the moneys were destined, and the report concluded with the assurance that "the disbursements of money have been always made pursuant to law."[1] The next year Mr. Nicholson, at the head of a committee to inquire whether moneys drawn from the Treasury had been faithfully applied to the objects for which they were appropriated, and regularly accounted for, reported to the House in these words:

> Some irregularities are stated to have occurred where moneys have been advanced upon the simple application of the Secretary of the Treasury by letter, without the formality of a warrant and sometimes even without a previous appropriation; but in those cases the irregularity has been afterwards covered by subsequent warrants and appropriations, and the committee do not discover that it has been productive of an injurious consequence to the United States.[2]

In these reports it is plain that warrants were viewed, not as instruments to secure payment of moneys, but as means of so attesting the fact of payment that roguery would be easily detected.

Albert Gallatin, who brought about more precise specifications in appropriations, and the keeping of accounts under subheads of the same, also instituted greater precautions in the advances of public moneys.[3] But by act of January 31, 1823,[4] Congress declared that thereafter "no advance of public money shall be made in any case whatever." A proviso, however, was added to this act making it lawful, "under the especial direction of the President," to advance money in two cases: (1) to disbursing officers in amounts necessary to the faithful and prompt discharge of their duties and to the fulfilment of public engagements; (2) to persons in the military and naval service employed on distant stations where the discharge of their pay and

[1] Doc. no. 157, 6th Congress, 2d session; 1 American State Papers (Finance), 690.

[2] Doc. no. 186, 7th Congress, 1st session; 1 American State Papers (Finance), 752.

[3] Doc. no. 293, 10th Congress, 2d session; 2 American State Papers (Finance), 335. *Cf.* with act of March 3, 1809, secs. 1, 3, 4, 5; 2 Statutes at Large, 535.

[4] 3 Statutes at Large, 723; Revised Statutes, secs. 1563 and 3648.

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emoluments accounts cannot be regularly effected. The President was at that time the disbursing officer of the government so far as the foreign-intercourse fund was concerned. He inquired of Attorney-General Wirt whether this act prevented him from making those advances to foreign ministers which had been usual from the beginning. Mr. Wirt considered that the statute, though restrictive in its terms, should be extended to cases within the reason of its provisions, and held that if in the President's judgment the discharge of the public engagements with regard to the minister rendered an advance necessary, it might be properly made.[1] In a case before the Supreme Court in 1843[2] it appeared that the sums in the hands of a marshal, for which his sureties were held liable, had been furnished by the Secretary of the Treasury, under written directions from the President to advance from time to time to various classes of the disbursing officers of the government, among others to marshals, such amounts as should be found necessary to the faithful and prompt discharge of their duties, *etc.* It was insisted that the power vested by the statute was not one appertaining to the *office* of President, but was an authority strictly *personal* and ministerial, to be exercised in every instance by the individual himself, by his own hand, and never in any respect to be delegated. This interpretation the court most positively refused to admit.

> While it has been, doubtless, the object of Congress to secure economy and regularity in public disbursements, and for that end to limit, as far as was proper, the discretion of subordinate agents over the public money, it never can be reasonable to ascribe to them a conduct which must defeat every beneficial end they could have had in view, and render the government an absolutely impracticable machine.

It was held that the President could instruct the secretary to make advances for the expenses of the courts, either upon average estimates or upon requisitions of the marshals showing the necessity of advances to meet the public service. The papers containing such directions, which had been issued a short time

[1] October 14, 1823; 1 Opinions, 620.
[2] Williams *vs.* United States, 1 Howard, 290.

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after the passage of the act of 1823, had been destroyed in the Treasury fire of 1833, and at this trial their contents had to be proved by the clerk who remembered them. After this, President Pierce issued an order governing the matter, which is still operative.[1] Subsequent Presidents have added other names to this list, but no change has ever been made in the important limitation imposed by him, that the amount of the advance made to an officer who had given bonds should not in any case exceed the penalty for which he was liable.

Such has been the development in the matter of advances. Now as to the second serious defect in the act of 1789 — the absence of any provision for the employment of contracting and disbursing officers.

It must have been the intention of those who framed the Treasury constitution that the head of that department, with the assistance of his officers and clerks, should make all the purchases of government supplies.[2] Hamilton was required, at the very beginning by an executive order[3] and afterwards by an act of May 8, 1792, to make all purchases and contracts for furnishing the army with provisions, clothing, quartermasters' supplies, military stores, Indian goods and in fact to procure all supplies for the use of the War Department. The *modus operandi* was this. The Secretary of War would address a letter to the Secretary of the Treasury informing him what supplies were necessary for the Department of War, when they were wanted and in some instances where they were to be delivered, and also furnish the necessary samples, patterns and models. The Secretary of the Treasury would then comply with this demand to the extent of the appropriations.[4] Not to speak of the divided and imperfect responsibility of such a system, or of

[1] This order is given in full in 1 Lawrence, 630 (Decisions of the First Comptroller).

[2] Perhaps the chief reason for giving the Treasury this power was the pecuniary embarrassment of that period. A system of most rigid economy in the public disbursements was necessary. It was therefore proper that the department charged with the replenishment of the Treasury should have a direct control over expenditures. See Annals of Congress, December, 1816, p. 23.

[3] Annals of Congress, December, 1816, p. 23.

[4] Mr. Harper's Report, July 5, 1798. Doc. no. 136, 5th Congress, 2d session; 1 American State Papers (Finance), 590.

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the burdensome and inappropriate duties that it cast upon an officer whose chief function was the improvement and collection of the revenue, an important canon of accounting was set at naught by entrusting the ordering of disbursements to an official who had a part in their settlement. We need not dwell upon the confusion and loss resulting from this system, because it was soon set aside.[1] It is worth while to note, however, that its foundation was the idea that the Treasury,

> from its situation, may be expected to feel a more habitual solicitude for economy than any other [department], and to possess more means of information respecting the best mode of obtaining supplies.[2]

The corresponding assumption, "that the Secretary of the Treasury has stronger obligations and a more particular responsibility in money matters than the other secretaries," though pronounced unwarrantable in law and mischievous in tendency by the most astute critics[3] of our executive departments, has been continually put forward, and underlies many of the practices now in vogue.

The disbursement of the moneys appropriated for our foreign service was at first assigned to the President, and he was required to lay before Congress an account of his expenditures.[4] This duty was really performed, however, by the Secretary of State.[5] Jefferson and Randolph and Pickering and Marshall submitted like clerks their accounts to the Treasury, and asked for the allowance of credits on account of disbursements made by them of the funds appropriated for the department over

[1] See act of March 3, 1799, sec. 24, 1 Statutes at Large, 754, and act of March 28, 1812, 2 Statutes at Large, 696.

[2] See Hamilton's letter of December 2, 1794, cited in Ingersoll, History of the War Department, pp. 24, 25.

[3] See, for example, Peter G. Washington, On Simplifying the System of Public Accounts; Ex. Doc. no. 71, 24th Congress, 2d session.

[4] Act of July 1, 1790, 1 Statutes at Large, 128.

[5] See Gallatin, 1 American State Papers (Finance), 755. Concerning the history of our London bankers, there referred to, see 1 Lawrence (First Comptroller's Decisions), 608. In process of time a clerk in the Department of State was designated as agent for procuring supplies and paying contingent expenses. 5 American State Papers (Finance), 997.

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which they in turn presided. Mr. Moncure D. Conway has told how one of them, Edmund Randolph, was found a debtor and harassed for many years by Treasury officials, with whom it seemed impossible for him and his friends to secure a final settlement.[1] This plan was necessarily short-lived. The personal responsibility of cabinet officers acting for the President in the disbursement of public moneys interfered with that control of expenditures which the Treasury asserted for itself.

The War and Navy Departments were each supplied until 1817 with an officer styled an accountant, who actually settled the bills. Their quarterly accounts, embracing these individual ones, went through a form of settlement at the Treasury, but there was virtual independence.[2]

Without the aid of disbursing officers, — those efficient instruments for carrying out the thousand petty operations of the departments, — the Treasury system would have broken down under the weight of the demands upon its service. These officers, however, were not summoned to the assistance of the Treasury officials by any legislation. For twenty years they were unrecognized and for fifty years but little controlled by law. Their origin was illegitimate, their growth rapid and irregular, their fees enormous, their services indispensable. At first, they gave no security for the moneys advanced to them, received no fixed salary for performing their duties as disbursers and followed no safe rules in respect to either the deposit of the funds with which they were entrusted, or the return of their cash accounts.[3] Acts of Congress passed *after* they had sprung up regulated their conduct, brought them within the supervision of the legislature and cut off many of their emoluments and privileges. Courts have been most rigorous with them; comptrollers have charged them personally with moneys spent for public purposes under orders from superiors; Con-

[1] Edmund Randolph, p. 370.

[2] Concerning these accountants, see acts of May 8, 1792, 1 Statutes at Large, 279; July 16, 1798, *ibid.* 610; April 29, 1816, 3 Statutes at Large, 322; March 3, 1817, *ibid.* 366.

[3] Doc. no. 293, 10th Congress, 2d session; 2 American State Papers (Finance), 335.

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gress has tried to wring from them annual detailed statements of their expenditures. They are accountable to the heads of their own departments, to the Treasury and to Congress. It has already been said that they helped to revolutionize the accounting system of 1789. The revolution was quiet, imperceptible, but complete.

The original theory was that only those having demands *against* the government should submit accounts to the auditor, and that that officer should either allow or disallow such claims. If he allowed them, his finding was merely recommendatory. The comptroller decided, and his decision was final. But the auditor's disallowances were meant to be *final decisions*, unless appealed from within six months. Through the practice of making advances, however, there came into existence a class of public agents or public contractors *indebted* to the United States. The auditor, we may be sure, was puzzled when accounts were received showing balances due *to* the government. The proviso to the act of 1789, that any one dissatisfied with his auditing might appeal to the comptroller, was easily enough construed when only isolated demands for payment were made against the Treasury. But how was it to be applied to an account of disbursements rendered by one who admitted that, with all his credits allowed, he would yet remain a debtor? It appears that the auditor construed it to mean that he should, in certifying the account to the comptroller, transmit only such vouchers as in his judgment were unobjectionable. Any that seemed to involve illegality or impropriety of expenditure he either retained or sent back to the disbursing officer. As the comptroller was not informed of these claims, and as he freely exercised his powers of revision over such credits as the auditor had admitted, the balances found due from the disbursing and receiving officers were surprisingly large.

The result of this situation was a very general disinclination to render accounts. The organic act provided that the auditor should "receive" all public accounts. *Claimants* were prompt enough to submit their demands, though the auditor was not

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always so prompt to act.[1] Disbursing officers, however, did not care to have him review their disbursements of moneys collected or received by means of an advance. They knew that they had spent the money for public purposes and were willing to prove it to their superiors. But it was not agreeable to come into collision with the auditor concerning the propriety of using funds pertaining to one appropriation for objects within the scope of another, or concerning the expenditure of moneys for purposes absolutely necessary for the accomplishment of legal objects, but not expressly within the provisions of the law. An act of March 3, 1795, met all the difficulties in the situation.[2] Officers accountable for public moneys were required to render their accounts of expenditures, with the vouchers, to the auditor's office when notified to do so by the comptroller, through the marshal of the district. If this notice was not respected, suit was to be instituted by the comptroller, and the delinquent was to pay all costs and charges whether the ultimate decision should be in his favor or against him. If the notice was obeyed, the auditor was to proceed *immediately*[3] to liquidate the credits and to report the same to the comptroller, "with a particular list of any claims" which he may have disallowed.[4] The comptroller was at once to examine the list of credits reported by the auditor and, if he approved them, to cause the proper entries to be made on the public books. A day for hearing the claimant on the items disallowed by the auditor was to be appointed, and he was also to be furnished for the same purpose with a list of such credits as

[1] The proviso in the act of 1789 was appealed to in the early days as a kind of administrative writ of *certiorari*. The claimant, feeling aggrieved by the auditor's non-action, had the matter carried up to the comptroller.

[2] 1 Statutes at Large, 441.

[3] It became necessary again in 1809 to stimulate the auditor to act promptly on accounts. The comptroller was authorized to direct him forthwith to settle and report them. 2 Statutes at Large, 535.

[4] This is the beginning of that practice, which has ever since characterized the Treasury, of permitting the comptroller, *without a formal appeal* from the claimant, to decide upon items of an account disallowed by the auditor. This also is the first and, indeed, the only legislative authority for the auditor's "Statement of Difference," or "Reconciling Statement," which still plays such a prominent part in our national accounting.

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the comptroller refused to admit. Failure of the claimant to assign in writing or otherwise, within the time limited, his reasons why the suspended credits should be admitted, forever barred the claims. But if the reasons were properly submitted, the comptroller was immediately to consider them and decide on them "according to the principles of equity and the usages of the Treasury Department." This decision was to be "final and conclusive to all concerned."

Here, then, we have a system in many respects admirable: the government was amply protected by two investigations of the sum to be allowed; the claimant was given a primary hearing before the auditor, and then an opportunity for full argument upon what may be called a new trial, with the assurance that equitable principles were to be applied to his case. Many features of this system still remain, although the Supreme Court has held that the act has been abrogated and the compilers of the statutes have refused to place it in our code.

In one respect the law was harsh. It gave only an executive remedy and made the greatest promptness necessary to secure that. This was corrected two years later by an act[1] which made it the duty of the comptroller to bring suit against any person accountable for public money who neglected to pay into the Treasury the balance found due from him upon the adjustment of his account. A transcript from the Treasury books was to be admitted as *prima facie* evidence of the debt. The defendant was then given the privilege of setting up cross demands — credits to which he was equitably entitled — provided they had been duly submitted to and rejected by the accounting officers. This act seems to have been merely auxiliary to the previous statute.[2] It enforced the collection of balances found due in accordance with the act of 1795, and provided for an appeal from the comptroller to the court on the credits claimed but not admitted. In 1824[3] an effort was made to have a transcript rejected as evidence on the ground that the defend-

[1] Act of March 3, 1797, 1 Statutes at Large, 512.
[2] United States *vs.* Fisher, 2 Cranch, 358.
[3] Walton *vs.* United States, 9 Wheaton, 651.

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ant had not been notified under the act of 1795 to render to the auditor his accounts and vouchers with a view to settlement. It was contended on the other side that the act in question was virtually repealed by that of 1797, which contained provisions incompatible with those of the former act. The Supreme Court deemed it unnecessary to decide the question of repeal, because the act of 1797 contained ample provisions for the case at bar. But in 1831, when the same contention was made,[1] the court, intimating that the notice required by the act of 1795 was at any rate merely directory to the officer and essential only to subject the delinquent to the penalties provided, held that the acts of 1797 and March 3, 1817, had made such material changes in the accounting system that, although the act of 1795 had not been expressly repealed, it had been abrogated by new and substantive provisions. I think it can be shown that the act of 1817 did not alter the *system* of auditing accounts established in 1789. It should be remembered, however, that the court was dealing simply with the necessity of giving the notices required by that act in order to subject one to a suit. No one will question the propriety of accepting the transcript as evidence in a legal proceeding though no notice has been given. But it is evident that notice of disallowance and opportunities for argument must be given in order to secure for executive decisions that conclusiveness of which the act of 1795 speaks, and which has ever since been claimed for them.

II.

Under the system which the courts and codifiers have brought into existence the comptrollers must gravely pass upon claims, however absurd on their face and however great in number, which the auditors have rejected, though no appeal be taken. This system makes all the auditors and their corps of assistants mere clerks to the comptrollers, and calls for as many examinations and records in one class of cases as in another. If the auditors *are* clerks, the two offices should be combined, as Jefferson suggested to Gallatin should be done. Double or even triple

[1] Smith *vs.* United States, 5 Peters, 373.

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examinations may be made of accounts and claims in one as well as in several offices.

The early character of the auditor's office is shown not only by the fact that under the original system his rejection of an ordinary demand arising *ex contractu* was a decision, but also by the fact that in time he was made the sole judge both of allowances and disallowances in cases involving intricate questions of law and fact and calling for awards of millions of dollars. Over that large class of claims growing out of losses and damages consequent upon wars the auditor for many years had sole jurisdiction. His judgments in these cases were final.

These claims were first provided for in 1816.[1] Officers and soldiers who in the war of 1812 had lost their own horses or arms and accoutrements; citizens whose horses or conveyances had been impressed or taken under contract, and lost in the military service; all, indeed, who had sustained damage by reason of the impressment or the destruction of their property in connection with military operations were given two years in which to exhibit their claims before a commissioner. This officer was appointed by the President with the advice and consent of the Senate, and was vested with discretionary functions. He established rules, under the direction of the President, in regard to the receipt of applications, the kind and degree of evidence required in their support and the manner in which testimony should be taken. When a claim exceeded $200 in amount, one or more commissioners in the neighborhood of the witnesses were to be named to propound interrogatories. The adjudications of the commissioner were recorded, and in case of a decision in favor of a claimant, he or his legal representative was entitled to payment upon presentation of a certified copy of the record at the Treasury of the United States. The office of commissioner having expired by limitation of law, the unadjusted claims were in 1818 transferred to the third

[1] Act of April 9, 1816, 3 Statutes at Large, 261. An act of March 3, 1817, required the Secretary of War, upon a statement of facts made to him by the commissioner, to revise all claims of $200 or upwards allowed by the commissioner, and to confirm or reject such allowance. See 2 Mayo, 129.

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auditor, to be adjudicated under similar regulations. After this came the wars with the Seminoles, the frontier Indians and Mexico. Time for filing the claims was extended by one act of Congress after another. The auditor found himself possessed of a new and most important jurisdiction. Soon the method originally pursued of taking depositions gave way to the evidence of official records and to *ex parte* affidavits. The awards of the auditor were paid just as those of the commissioner had been paid, and as the judgments of the Court of Claims are now paid. In time the fact that he was acting as commissioner of claims faded out of men's minds. The idea crept in that it was a part of the duties of the accounting officers to adjust claims for damages. In 1842[1] an appeal was allowed to the comptroller in those cases which the auditor rejected. On account of the numerous losses resulting from the Civil War this jurisdiction was vastly extended both by legislative enactment and executive construction. In 1866[2] a class of claims in which the favorable decision of the auditor had been final was brought within the procedure established by the act of 1789. Nowadays there is no distinction between these and ordinary accounts. All go as of course from the auditor to the comptroller.

The history of his functions shows clearly that under the act of 1789 the auditor in disallowing claims — isolated claims — acts judicially and renders decisions which are binding unless appealed from; and that under the act of 1795 his rejection of claims for credits, — items in a "running" account, — though reported to another office, must be allowed to stand unless the claimant, after due notice, shows to the satisfaction of that officer — the comptroller — that according to equitable principles

[1] Not only the unadjusted claims had been transferred to the auditor, but also the *duties* of the commissioner. All the statutes authorize him to *adjudicate* this class of claims. In 1837 the check on his jurisdiction exercised by the Secretary of War was removed. A custom grew up of asking the comptroller's opinion in cases of difficulty before the award was made, and after the act of August 23, 1842 (5 Statutes at Large, 511) *all* the decisions *pro* and *con* were — perhaps to avoid responsibility — gratuitously reported to the comptroller without waiting for an appeal. 2 Mayo, 129.

[2] Act of July 28, 1866, 14 Statutes at Large, 327, sec. 8.

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the items should be admitted to his credit.[1] Unfortunately, a wholly different system has been foisted upon the Treasury by reason of the failure on the part of the revisers to notice either the proviso to the act of 1789 or any part of the act of 1795. In 1876 Attorney-General Taft used in an official opinion language which seems to mean that in all cases, whatever may be the finding of the auditor, his action is merely primary and not definitive.[2] The Court of Claims has since declared that "it is no part of the duty of auditors (except the sixth auditor) to make decisions binding in any way upon anybody."[3] "The auditor merely examines and audits accounts, neither allowing nor disallowing the same, certifies balances and transmits the same to the comptroller for *his* decision thereon."[4] With this description of the duties of the accounting officers the Supreme Court has lately pronounced its agreement.[5] As a matter of fact, the act of 1817 on which the description rests did indeed distribute accounting duties among several auditors and raised up a new comptroller, but it did not, rightly construed, produce the slightest alteration in the method of doing the work.

We are not left in the dark as to the absurdity and mischievousness of the present system. "Experience has shown," says the second auditor in his report for 1887,

> that not only those persons who have valid claims under new laws and decisions make demand upon the Treasury, but that thousands of others who fancy they have not been paid in full present formal applications. . . . Under the practice that obtained prior to 1872 claims of the class last mentioned would have been summarily rejected by the second auditor, but . . . now they must be examined and certified to [the second comptroller], with all vouchers and other evidence, for his action under section 277, Revised Statutes.

[1] All claims, therefore, growing out of the war — being isolated in their nature — should, when rejected by the auditor, be barred, unless appealed to the comptroller within six months. Such is the meaning of the act of 1789, as is ably maintained in a letter (manuscript) dated April 18, 1870, from the Solicitor to the Secretary of the Treasury.

[2] 15 Opinions, 142.

[3] Ridgway *vs.* United States, 18 Ct. Cl. 717.

[4] Waters *vs.* United States, 21 Ct. Cl. 37.

[5] United States *vs.* Waters, 133 U. S. 208.

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After calling attention to the fact that these worthless claims constitute more than half of all those disposed of during the year, he adds:

> If it were possible that the time spent in the examination and investigation of worthless cases could be devoted to the adjustment of meritorious ones, the list of unsettled claims could be rapidly diminished, and creditors of the government might expect that their business with this office would be transacted within a reasonable time.[1]

The proper remedy for the evil here noticed is to apply the proviso of the act of 1789 to all isolated demands of claimants against the government, and the method of settlement described in the act of 1795 to all "running accounts" of expenditures rendered by public officers, with the qualification in the latter case that no omission of the formalities required by law shall affect the competency of Treasury transcripts as evidence in suits. Then half the claims would meet their fate in the auditor's office; and of those transmitted as of course or on appeal to the comptroller, all but the merest fraction would be *finally* disposed of. One other feature should, perhaps, be added. The comptroller or auditor who gives the final decision of disallowance should be permitted to appear in person or by brief in the court in which the claimant may assert his claim either as plaintiff (in the Court of Claims) or as defendant (under the act of 1797). This would be not only fair to the accounting officer, whose decision is to be brought in question, but a safeguard against reckless and irresponsible executive adjudications.

III.

The act of March 3, 1817,[2] assigned to the Treasury control over all accounts. From the first this had been the design, but the creation of accountants in the War and Navy Departments in part destroyed the system which Hamilton had projected. While these accountants existed, the power of revision did, indeed, reside in the Treasury officers, but the sums reported by the former as due to individuals were paid without waiting for its exercise. As the reports of the accountants were not

[1] Finance Report, 1887, p. 587.

[2] 3 Statutes at Large, 366.

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transmitted to the Treasury until the end of the quarter, it is plain that waiting for a Treasury revision before actually making payment would have obstructed many of the operations of the government. Yet, on the other hand, as soon as the plan was adopted of making payments upon the settlement of the accountants, the revisionary power of the Treasury became useless. The form of control was retained; its vital principle was extinguished. It has, indeed, been questioned whether this principle is after all very important.[1] The power of the accounting officers to enforce economy in any branch of the public service is very much limited. The principal reliance must always be upon the integrity of disbursing officers. It has been well said that it is not "so important that the public accounts should be settled in the Treasury Department, as that they should be promptly settled."

The settlement at the Treasury, however, has the recommendation of unity and simplicity in theory, and it was the system proposed in 1816 by the heads of departments themselves.[2] The plan that they submitted required a general elimination of incongruous functions from the departments then existing, called for the establishment of a Home Department, abolished the offices of the accountants and, with some other changes, demanded the appointment of a solicitor, four additional auditors and one additional comptroller for the Treasury. Over the accounts of each department, as modified, one auditor was to exercise jurisdiction. The accounts of the War Department, being much in arrears, were to be examined by two auditors, but this was meant to be merely a temporary feature. The system was simple and capable of indefinite expansion. All accounts accruing in the Treasury Department were to go to the first auditor; all in the War Department, to the second and third auditors; all in the Navy, to the fourth auditor; and all in the State and Home Departments,[3] to the fifth. The assign-

[1] Report of the secretaries, December, 1816. Annals of Congress.

[2] *Ibid.*

[3] The Home Department, it should be mentioned, was under this proposed plan to have charge of (1) the territorial governments, (2) the national highways and canals, (3) the General Post-Office, (4) the Patent Office, (5) the Indian Department.

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ment of two departments to the fifth auditor was not burdensome because the accounts of the State Department were few in number.

Nearly all of the suggestions of the report have been carried into law, but the Congress then in session adopted only those relating to the reorganization and improvement of the accounting system. The act of 1817 did away with the accountants and provided for the adjustment and settlement at the Treasury Department of all claims, demands and accounts in which the United States were concerned. For this purpose it increased the force of officials, as had been recommended, and distributed their duties as follows: All accounts accruing in the Treasury Department were to be received and examined by the first auditor, and all relating to the Department of State, the General Post-Office and Indian affairs by the fifth auditor. These two, after examination, were to certify the balances and transmit the accounts, with the vouchers and certificates, to the first comptroller for his decision thereon. The second, third and fourth auditors were in the same way to examine, as had been proposed, the accounts of the War and Navy Departments and to report to the second comptroller.

The design was to place as nearly as possible the accounts of each department under the supervision of an auditor. But this design was not fully executed then, and it has since been so marred as to be scarcely visible. It was at once evaded by the officers themselves, and it was wholly disregarded in subsequent legislation. To give to each auditor the exclusive control of the disbursements of some one branch of the public service, it was thought, would secure not only a stricter responsibility, but also a greater degree of expertness in each auditing office. By observing this design the disbursements made by one officer from any number of appropriations would be supervised at last by one comptroller, instead of by several as at present. Then it would be possible, whenever the occasion might arise, to tell by a single glance just how the disbursing officer stood. As the balances now appear on the books of several offices, it is impracticable in making advances to a disbursing agent

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to observe the caution contained in President Pierce's order.[1] In 1836 the accounts of the Post-Office were put in charge of an auditor, created for the purpose. But as he was not put into relations with a comptroller, the general symmetry of the plan was injured. In 1849 when the Interior Department, made up of fragments of the old departments, was established, the accounts of its various bureaus were permitted to take the same course of auditing that they had previously taken. This causes endless confusion, some going to the first, some to the second, some to the third and some to the fifth auditor, in accordance with the directions laid down at the time when they related to the Treasury, to the War and to the State Department, respectively. One auditor has not been mentioned, — the Commissioner of the General Land Office. In 1812[2] this officer was appointed to relieve the Secretary of the Treasury, who from the beginning had been charged with duties touching the public lands. It was provided that the new commissioner should audit all returns relative to these lands and, upon the settlement of the accounts, should certify the balance, just as in the case of the other auditors, to the comptroller. The Interior Department obtained supervision over these matters when it was created, but the accounts still pass from the commissioner, not to an auditor, but to the first comptroller. All accounts of district attorneys, marshals and other officers of courts, the supervision over which was also transferred from the Treasury to the Interior, now relate to the Department of Justice, which was established in 1870.[3] So far as the auditor's jurisdiction is concerned, they also are still supposed to accrue in the Treasury. Accounts belonging to the Department of Agriculture, it should be mentioned, were assigned by law in 1868 to the first auditor.[4]

[1] That is, to advance no sum in excess of the penalty of such officer's bond. As he has an amount already to his debit, as a rule, when the advance is requested, the Treasury official who indorses the request should be able to tell the condition of affairs by a glance at his books. But at present this cannot be ascertained in all cases in his own office.

[2] Act of April 25, 1812, 2 Statutes at Large, 716, sec. 9.

[3] Act of June 22, 1870, 16 Statutes at Large, 162.

[4] Act of July 20, 1868, 15 Statutes at Large, 106.

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It is evident that only through an intimate acquaintance with departmental history can the subject matter of any auditor's jurisdiction be known. The embarrassment and loss that result from such a want of system can hardly be overstated. To restore simplicity and order there is needed only an act of a few lines creating an auditor for each department with exclusive control over all its accounts. This would be also in the interest of economy. It would be helpful to all concerned to designate each of such auditors by the name of the department whose accounts he was to examine, instead of by meaningless numerals.

Though the act of 1817 brought the whole grist of accounts to the Treasury mill, it did not alter the method of grinding. It says nothing, it is true, about appeals. But this does not indicate a change in the system. There is a like omission of any reference to the prohibition against carrying on trade which was imposed in 1789 on certain designated officers of the Treasury, yet the additional auditors have been held to be within that restriction.[1] And again, though the act does not in terms extend to the additional comptroller the power to require the auditors under his supervision to proceed to the immediate examination of a given account, it has been convincingly argued that he nevertheless enjoys that privilege.[2] In short, all these are officers of the Treasury as originally established. The duties, privileges and disabilities imposed upon the auditor or the comptroller prior to 1817 devolved upon the new officials, and were meant to be laid upon each additional one that the system, as it grew, might call into existence.

Nor did the act of 1817 enlarge the jurisdiction of the accounting officers. All claims and accounts previously within the power of any auditor or accountant to adjust, and no others, were to be settled at the Treasury, primarily as well as finally. Nothing more than this was meant. But upon the language used, skilful and not unsuccessful efforts have been made to

[1] 4 Opinions of the Attorneys-General, 557.
[2] 2 Opinions, 625.

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build up an immense jurisdiction over claims for damages. That such a construction is wholly indefensible appears not only from the inadequate machinery furnished the accounting officers for testing the validity of such demands, but also from the fact, already alluded to, that the Commissioner of Claims remained undisturbed, side by side with Treasury officials, but independent of them and provided with a different procedure. The word "claims" in the act had a well-defined meaning at the time it was used. It embraced only those demands *for credits*, set up by officers chargeable with public moneys, for commissions, salaries or expenses not clearly provided for in the law governing their disbursements. It had already been thus used in the acts of 1795 and 1797. In 1823 an act[1] declared that a certain class of these officials should be credited with proper disbursements, notwithstanding the failure to produce regular vouchers, if the impracticability of furnishing the vouchers should be proved. This law let in secondary evidence under the same circumstances that govern its reception in courts of justice, though not for the purpose of establishing demands requiring actual payment, but simply to reduce the balances already standing against the claimants. "The credits to be allowed," the law read, "shall in no case exceed in amount the sums with which such persons, respectively, shall be charged on the books. . . ." Moreover, if the expression "all claims by the United States or against them shall be settled and adjusted in the Department of the Treasury" means, as has been often asserted, that the auditors must examine into demands for damages or into other matters not connected with accounts, the query arises: which auditor is to do this? By other sections of the same act that contains this expression, each auditor is given a carefully circumscribed jurisdiction. This jurisdiction includes only "accounts." If damages inflicted by individuals upon the government may be assessed by Treasury officials under this act, it will not do to refuse an executive remedy in those cases in which individuals have been injured by the government. But this remedy has been persistently denied.[2] The

[1] Act of March 1, 1823, 3 Statutes at Large, 770, 771.

[2] 4 Opinions of the Attorneys-General, 328, 630.

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only fair and proper ground for this denial is that the accounting officers have no jurisdiction at all in such cases, whoever may be called upon to pay; because no general law has vested them with the power or with the means to try controverted questions of fact. They deal only with those having accounts against the government, or with those who under special laws now bring to them demands which originally were exhibited to the Commissioner of Claims.

IV.

Neither the Secretary nor the Register of the Treasury was charged with any duties concerning those accounts which were brought in 1817 within stricter Treasury control. The respective auditors received and filed the accounts after their final adjustment by the second comptroller, and made all necessary book entries. They also recorded the warrants drawn by the secretary of the proper department in payment of the balance certified to them by the comptroller. The second comptroller had the same relations to the Secretary of War and the Secretary of the Navy that the first comptroller had to the Secretary of the Treasury. He reported to them the result of his adjustments when they needed warrants on the treasurer for their payment, and countersigned these warrants when issued. He did this directly. The first comptroller certified balances to the head of the Treasury Department through the register. In 1836[1] when a new Treasury auditor (the sixth) was placed as a check upon the disbursements of the Post-Office Department, all functions of audit, of final adjustment, of countersigning warrants, of registry and of collection of debts devolved upon him. It was then enacted that the Postmaster-General or any person whose accounts had been settled by the sixth auditor might, if dissatisfied with such settlement, appeal within twelve months to the first comptroller, whose decision should be conclusive. But this has not been construed to require such accounts — when an appeal is taken — to be sent, after the

[1] Act of July 2, 1836, sec. 8; 5 Statutes at Large, 80.

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decision, to the register. Indeed, so seldom is the comptroller called upon to exercise this appellate jurisdiction that it can scarcely be recognized as a feature of his office.

It has often been mentioned as a defect, that the results of all adjustments are not exhibited in one central office. If such an office were in existence, it would be unwise to make any alteration in it. But as it has never existed, the question at once arises why there should be one book-keeper — the register — entering the results of about one-third of the accounts of the government, and four auditors keeping their own books. Inasmuch as public business has grown to be immense, and as despatch in the settlement of accounts is the crying need of the Treasury, it appears more sensible to make every auditor his own register, as is now the case with four of them, than to converge all the accounts into one office, whose intervention must be sought before payment can be made. It is an incalculable saving of time for the accountants of an auditor's office to have both the files and the ledgers near at hand and under their own control. To each auditor, so equipped, should be confided the collection of all outstanding balances and the preparation of cases for suit. The comptrollers, now charged with this duty, cannot efficiently perform it, as they are dependent on the auditors and the register, both for information concerning the existence of old balances, and for the copying and certifying essential in the preparation of transcripts used as the bases of suits. The district attorneys should then be put into close relations with the auditors, and the two acting together might succeed in keeping the books clean. At present the comptroller takes the initiative, though dependent on others for information concerning the state of accounts, and after all the documents are prepared, the whole matter is turned over to the Solicitor of the Treasury, an officer of another department — the Department of Justice.

The system in operation from the time that the War and Navy Departments began to make their own purchases and attend to their own affairs generally, permitted the heads of those departments to draw warrants direct on the treasurer,

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but left with the Secretary of the Treasury the function of drawing the warrants which placed in the hands of the treasurer, as agent of those departments, the funds which Congress had appropriated for their use. This confounds the *department* of the Treasury with the *office* of the treasurer. Mr. Peter G. Washington, in his discerning critique of the accounting system, thus comments on this point:

> In no other way can we sufficiently account for the idea which has so long prevailed, so unfounded in theory and so inconvenient in practice, that when money is appropriated *in* the Treasury for the use of another department, an act of the Secretary of the Treasury, a sort of new appropriation, is necessary to give effect to the first. In fact, the money is appropriated in the hands of the treasurer, and there can be no sound reason, when Congress has done this, why all the secretaries should not draw directly upon him for it, precisely alike, under the same limitations and safeguards.

What makes matters worse is the act of 1822.[1] The register's office did not show the *detailed* expenditures of the War and Navy Departments, but only their *warrant* indebtedness. In making up the annual estimates, the *actual* aggregate receipts and expenditures had to be sought in various quarters. It appears that on one occasion these sources were not sought, but the register's books alone were depended upon, and the result was what Mr. Washington terms "a memorable mistake" in the estimates, "giving rise to an exciting event in the politics of the day." This brought on the act of 1822, abolishing the agency of the treasurer for the War and Navy Departments, and requiring *all* warrants to be issued by the Secretary of the Treasury, those for the War and Navy Departments based upon requisitions of the respective secretaries. The whole object of the act was to secure upon the books of one office — the register's — entries of all the *subordinate* warrants, for the convenience of the Secretary of the Treasury in preparing the annual estimates. But it has had the effect of producing in some minds, not acquainted with its history, the conviction not only that the head of the Treasury Department has more

[1] Act of May 7, 1822, 3 Statutes at Large, 688.

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responsibility in money matters than the other secretaries, but that the first comptroller, who countersigns these warrants, has revisory power over the settlements of the other comptrollers. This last-mentioned notion needs no serious refutation. The other, however, was pretty generally accepted before 1822, and because of the act of that year, it has now become deeply rooted. That act has imposed upon the Secretary of the Treasury a most burdensome labor, and has created an impression which detracts unduly from the authority of the other secretaries. The idea that he is, by reason of his position, under stronger obligations than they to be watchful of the money in the treasurer's hands is, in the language of Mr. Washington, both shallow and mischievous. Shallow, because the Secretary of the Treasury

> is the great financier of the nation — devises plans for the improvement of the revenue and superintends its many sources of supply; but when the moneys reach the public coffers, his peculiar and appropriate duties as financier are at an end. These duties, multifarious as they are, all look but to the one great object — the collection of the public funds *into* the Treasury, and have no more necessary connection with a just responsibility for its disbursement *thence* for all the purposes of the government, than have the peculiar duties of the Secretary of War . . . or of the Secretary of the Navy. . . .

Mischievous, because though

> the other secretaries have in fact the substantial control over the moneys of their departments, the idea that the care of the public funds was the peculiar province of the Secretary of the Treasury would be calculated to make them less careful and vigilant in their disbursement.

V.

The comptrollers and auditors were stationed over the several departments in 1817 as checks upon their expenditures. But in 1855 the Supreme Court announced in the course of an opinion that

> the accounting officers of the Treasury have not the burden of responsibility cast upon them of revising the judgments, correcting the supposed mistakes or annulling the orders of the heads of departments.[1]

[1] United States *vs.* Jones, 18 Howard, 92, 95, 96.

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This is a statement of what, perhaps, *should* be true, but it may be with entire confidence asserted that no one acquainted with departmental history and laws can consider it as a statement of what always was true. Attorney-General Wirt had said in 1824 that the President himself "had nothing to do with the settlement of public accounts, either in the form of direction to the accounting officers *a priori*, or revision and reversal *a posteriori*," and that "his interference with this business . . . would be a usurpation."[1] It did, indeed, become a vexed question with Mr. Wirt's successors whether what he said was applicable also to the heads of departments, seeing that they had something to do with the settlement of accounts whenever they were asked to issue warrants for their payment. His position, however, that a comptroller's decisions are conclusive upon the President, received legislative sanction in 1868,[2] and the act which put at rest the question has been characterized by the Court of Claims as merely declaratory of what the law always was.[3]

The facts which gave rise to the contrary decision of the Supreme Court are worth mentioning. A lieutenant in the navy, while in Paris on leave of absence, was wounded by accident during a revolutionary outbreak. The Secretary of the Navy sent him a thousand dollars to pay the expenses attending his injuries. Inasmuch as a plain statute declared that the compensation which it prescribed for naval officers should be considered as covering *all* the pay, compensation and allowances to which they, under any circumstances, were entitled, the auditor refused to recognize the authority of the secretary in this case, and charged the thousand dollars against the pay account of the lieutenant. The question was simply whether the secretary in making the advance had any authority of law. Justice Daniel in his dissenting opinion said that the reasoning that the auditor could not question the legality or regularity of such advance, or charge it to the officer who had used it, seemed to rest on the mere idea of subordination.

[1] 1 Opinions, 679.
[2] Act of March 30, 1868, 15 Statutes at Large, 54.
[3] McKee *vs.* United States, 12 Ct. Cl. at p. 533.

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To such a rule of proceeding as this [he added] I can by no means subscribe. I know of no rule of subordination which can justify, much less demand, a departure from the law or from integrity, in obedience merely to the fact of inferiority in the gradation of place. Each and every officer has his duties to perform and is bound to their performance with independence and good faith; and no matter whose acts may be brought before him, whether those of his immediate superior or one much higher in power, he is bound to bring them all to the test of the law, and to pronounce upon all, from the greatest to the least, by one inflexible rule — the rule of duty.

Since then the court has apparently modified its opinion, and has used language similar to that of Justice Daniel. "We have no officer in this government," said this tribunal in 1868, "from the President down to the most subordinate agent, who does not hold office under the law, with prescribed duties and limited authority."[1] In a more recent case the court said:

Particular regard must be had to the nature of the duties intrusted to the several bureaus, and critical attention given to the language of the statutes defining the jurisdiction of the chief and his subordinates, and the special relation of subordination between them respectively; for it will be found . . . that the general relation between them of superior and inferior is varied by the most diverse provisions, so that in respect of some bureaus the connection with the department seems almost clerical, and one of mere obedience to direction, while in that of others, the action of the officer, although a subordinate, is entirely independent, and so far as executive control is concerned, conclusive and irreversible.[2]

It is not unsafe to assert that the rule laid down in 1855 concerning the acquiescence of the accounting officers in passing credits ordered by heads of departments would have been materially modified, had these distinctions then been suggested to the court.

The comptrollers are not clerks of, but are checks upon, the heads of departments. They are the depositaries of special powers. Their functions are so far judicial that Madison urged that their tenure of office should be independent of the executive. Their decisions cannot be reversed or, since 1868, even

[1] Floyd Acceptances, 7 Wallace, 666, 676.
[2] Butterworth *vs.* Hooe, 112 U. S. 50, 56, 57.

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arrested by the secretaries.[1] Nor are the comptrollers bound by the previous orders of the secretaries. If a departmental chief's previous direction is conclusive upon the comptrollers, so also is his subsequent approval of any disbursements made by his clerks. In that case there is no reason for vouchers. Yet vouchers are required by law in every instance except to support the disbursements of the Secretary of State for the purposes of intercourse or treaty with foreign nations.[2] We have seen that the Secretary of State once personally disbursed all the moneys appropriated for his department, and that he was then liable for their misapplication. It never occurred to Edmund Randolph, during his long and notable controversy with the accounting officers, to demand credits on the ground that his acts did "not require the approval of any officer of another department to make them valid and conclusive."

The Treasury has never acquiesced in the principle of the case decided in 1855. Secretary Guthrie, on March 3, 1856, wrote to A. O. Dayton, fourth auditor:

> I consider the second section of the act of the 3d of March, 1835, chapter 27, — that the yearly allowances provided in the act is all the pay . . . which shall be received under any circumstances by any such officer, *etc.* — is binding on the accounting officers of the Treasury, and must continue to govern them in settling with all officers embraced in the act, the decision . . . notwithstanding. . . . You will, therefore, consider the decision as not changing the law, and as not investing the Secretary of the Navy with a discretion to make allowances contrary to acts of Congress, and as only ruling this particular case.

This shows a bad state of affairs. But the accounting officers are clearly right in the interpretation of the rule which should control their conduct. One of our ablest comptrollers, Mr. Hiland Hall, has thus defined it:

> No claim is made by this office of any right in the accounting officers to go behind or to question the action of the Secretary of War upon

[1] Taney, in 2 Opinions of the Attorneys-General, 508; Hoar in 13 *ibid.* 5.

[2] Act of February 9, 1793, 1 Statutes at Large, 300. The fact that in judiciary accounts an appeal was given by express law to the Secretary of the Interior (11 Statutes at Large, 49, sec. 4), indicates that over the settlement of accounts in general heads of departments were to exercise no control.

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any matter which has, either by positive enactment or by implication of law, been committed to his decision. But if such officer, from a misapprehension of facts, from inadvertence or from any cause, gives his approbation to a claim the allowance of which is either prohibited or not authorized by law, it is conceived to be the clear duty of the accounting officers to withhold their sanction from the claim and thus to prevent its payment from the Treasury.[1]

A difficulty arises, however, from the fact that the comptrollers nowadays in sanctioning an *advance* cannot always tell to what precise purpose it is going to be applied, and their decision is asked *after* the payment has been made. In most cases, too, the person affected by their adverse ruling is the innocent disbursing clerk (and his sureties) who has merely obeyed the orders of his superior officer. Another difficulty is, to determine, when the law is not explicit, who shall be the final judge as to the possession of discretion by the secretary.

In England the method is as follows:[2] The accounts, with the requisite vouchers, are sent by the departments to a highly placed officer of state called the Comptroller and Auditor-General, in whose department they are examined, and who puts to the accounting departments whatever questions he may see fit, in writing, for written answers. These accounts, before they reach the Comptroller and Auditor-General, are countersigned by a particular officer in each department, *named by the Treasury* for that duty. This officer is responsible for the correctness of the items included in each account in the following particulars, *viz.* that they represent the sums actually issued, that the expenditure is properly vouched, that it was for the objects for which the vote was appropriated and that it was made with due authority. This officer corresponds to our departmental disbursing clerk. But his position is more endurable, because he does not have to stand between his own department and the fire of the Treasury. If

[1] Letter of May 17, 1851, to the Secretary of War.

[2] This description of the process of settling accounts in England is given in a circular dated Treasury Chambers, Whitehall, August 15, 1881, and entitled: "In what manner is the responsibility enforced of those Ministers and other Public Officers who are entrusted with the power of authorizing the expenditure of public money?"

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a competent authority orders a payment which would exceed the amount appropriated for the particular object, or which is for an object outside the appropriation, he is held responsible *for making the needful representation* to his superior officers, even up to the Parliamentary minister himself, if the matter is carried so far. But if this representation is overruled, the accounting officer presents it in writing and then countersigns the order; for it is considered that his function is to assent or dissent, not to administer or to overrule administration. The ultimate guardian, however, of administrative responsibility in England is the House of Commons, to which is referred the report of the Comptroller and Auditor-General. This report shows, among other things, the contentions between that officer and the accountants of the several votes, and also the decisions of the Treasury, which acts as a referee between them.

With us, cabinet officers are not responsible to Congress. To preserve the main features of our system it is necessary to admit that the comptrollers must revise the judgments, correct the mistakes and annul the improper orders of the heads of departments, relating to expenditures of public moneys. But justice requires that the subordinate agents of the secretaries should be relieved from responsibility in all cases in which no clear law has been violated and "all needful representations" have been made to their superior officers. The heads of departments have ample protection. Under existing law, they may not only submit to the comptroller, after he has certified an account, any facts which in their judgment may affect the correctness of the balance that he has declared, but they may transmit to the Court of Claims any claim made against their respective departments which involves disputed facts or controverted questions of law. There it is proceeded with as if originally commenced by the voluntary action of the claimant. From this court, in such a case, an appeal lies to the Supreme Court of the United States.

A simple and efficient accounting system can be at once established by merely making general certain features of those

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accounting offices which actual experience has shown to be admirable. Scarcely one new principle need be introduced. What is wanted is:

First. An extension of the principle of the act of 1817 requiring one auditor for each department. Each should be called by the name of that department over whose expenditures he exercises supervision.

Second. An extension of the principle of the act of 1836 (now applicable only to the Postmaster General) authorizing each head of a department to draw warrants direct on the treasurer: such warrants to be countersigned by the comptroller having final settlement of the accounts of that department, and to be recorded by that department's auditor.

Third. An extension of the principle of the acts of 1817 and 1836 conferring upon each auditor the custody of the accounts, the registry of the balances and the collection of the debts relating to his department.

Fourth. An extension of the principle of the acts of 1789 and 1795, requiring the auditor to report for the final revision of the comptroller all items of credit allowed and a particular list of those disallowed. The principle should be modified, however, so as to compel the auditor and not the comptroller to notify the claimant of his own disallowances. Further, to the auditor should be assigned the final decision, when *isolated* demands are *disallowed* by him, unless a formal appeal be taken to the comptroller within one year after notice of such disallowance shall have been mailed to the claimant, — this notification to contain a copy of the law allowing appeals.

Fifth. The assignment to the disbursing officers stationed in each department, as at present, of duties similar to those of the English accounting officers, and the same exemption from responsibility. These officers should be compelled, unless restrained by orders of their superiors, to refer to the Treasury for adjustment all demands of a doubtful character. As far as possible they should relieve the accounting officers in the settlement of all fixed salaries and statutory obligations. Acting upon the principle that an ounce of prevention is worth a pound

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of cure, all care should be manifested in supporting and strengthening this part of the system.

History teaches that the growth of business and the inclination of the accounting officers to manage every detail of public expenditure inevitably result in a virtual withdrawal from them of substantial control of settlements. This has happened once with us. Lest it happen again, the disbursing agents, already rigorously restrained by the Independent Treasury Act, should be closely connected, if not completely blended with the force of auditors and comptrollers. Streams of public money rush nowadays in a thousand directions from the Treasury, not to meet certified balances due from the government, but to settle demands as they arise. The disbursing agents are the guardians of these funds; the auditors and comptrollers are but the guards of the guardians, mainly useful in laying down the correct interpretations of acts and decisions relating to fiscal matters, and the general principles which should govern the settlement of accounts.

E. I. RENICK.

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THE PRESENT FARMERS' MOVEMENT.

THE various farmers' unions which the past year has brought prominently into view are not all of recent formation. Just at present, however, they all promise to exert a greater influence on state and national politics than ever before. The organizations, given in the order of their origin, are as follows.

1. *The Grange*, or *Order of Patrons of Husbandry*. This is a secret order which was founded in 1867 for the purpose of educating the farmers in the methods of their work. Its career has been checkered. After struggling for years in obscurity, it suddenly assumed great prominence in domestic politics, and has since found its steady level in the promotion of social intercourse and of distributive co-operation. At present it is established in nearly every state in the Union, though its membership, including both sexes, is probably not over 150,000. Grangerism has come to be an established term in politics, yet the Grange as such had nothing to do with the war waged against railways in Illinois and other Western states in the seventies. The present constitution of Illinois was adopted in 1870, the drastic anti-railway laws were enacted in 1871, while the state Grange was not organized until 1872. Nor had the Grange any official connection with the famous Granger Cases of the United States Supreme Court. In Illinois, at least, the railroad war was carried on by "farmers' clubs,"—open and avowedly political organizations, like the present Farmers' League, to be described later.

2. *The National Farmers' Alliance.* In 1880 Grange life was at a low ebb. The natural course of events had damped the ardor of the rank and file in anti-railroad wars. Then a new movement was begun, starting with the Cook County (Ill.) Farmers' Alliance, which in October, 1880, became the National Farmers' Alliance. The order is not secret; its purpose is (or was avowed to be) to unite the farmers for protection against

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class legislation. But the order is left in each state to secure this protection as best it can, and so there is but scanty material upon which to build a national body. Dakota, Missouri and New York were its outlying posts, within which the transportation question furnished a common bond. For a year or more the order has been steadily losing ground and now has but little strength outside of Minnesota and Nebraska. It is this organization which is commonly referred to as the "Northern" Alliance, in distinction from that next to be considered.

3. *The National Farmers' Alliance and Industrial Union.* This, the most powerful of the existing orders, has developed from several acts of combination of lesser bodies. It is now commonly referred to as the "Southern" Alliance, though the members bitterly resent the implication of sectionalism found in this name. The term indeed is not geographically accurate; for the order has organizations in more than a dozen Northern states. As early as 1875 a Farmers' Alliance was started in Texas. As the conditions which called it into being changed, the association died. In 1880 the idea was taken up by an old member and a new Alliance organized. This too led a precarious existence, and in 1886 the disruption of the body was imminent. Chiefly by the efforts of C. W. Macune, the bolters were induced to delay action, and in the meantime correspondence was opened with the officers of the National Farmers' Alliance and the Louisiana Farmers' Union, the latter an order in all essential matters identical with the Alliance. At a meeting of the Texas Alliance in January, 1887, internal strife was skilfully averted by an appeal for a general movement for the "organization of the cotton belt of America." The appeal succeeded, and steps were taken to unite with the Louisiana Union.[1] A

[1] Three reasons are given why fusion was not sought with the National Farmers' Alliance: first, that body "was a non-secret and very loose organization, with neither fees nor dues, and charters seemed to be sent out . . . to anybody who would request them . . . ; second, . . . the qualifications of membership made colored persons eligible; and third, . . . any person raised on a farm was considered a practical farmer and was therefore eligible, regardless of his present occupation. Macune, Proceedings of Farmers' and Laborers' Union, 1889, p. 16.

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fusion was soon effected and the new order was named the National Farmers' Alliance and Co-operative Union.

Another organization, the Agricultural Wheel, owed its origin to dissatisfaction in the South with certain features of the economic situation among the farmers. Throughout the South, it is a common practice for the small planter to mortgage his ungrown crop to the country merchant for seed and food supplies. As a rule these mortgages were held to give only an equitable interest in the produce, but in Arkansas, where they were known as "anacondas," — from their resemblance to the serpent that swallows things whole, — the mortgagee was given a lien not only on all the mortgageor had, but also on all that he might in any manner acquire during the specified time. By the terms of the contract the planter was bound to harvest his crop at the earliest possible date and turn all of it over to his creditor, who would give back the surplus, if there was any. The result of this was practically a condition of slavery. This state of affairs led in 1882 to the formation of an association in Arkansas which, from a neighborhood society in a single county, had by 1887 become a national body, claiming 500,000 members, scattered over the states from Wisconsin to Alabama and Texas.

The district organizers of the Wheel and those of the National Farmers' Alliance and Co-operative Union were crossing one another's tracks, and some understanding between the two orders became necessary. Accordingly in December, 1888, arrangements for a union were completed and the first meeting of the new body, under the name of the Farmers' and Laborers' Union of America, was appointed for December, 1889, at St. Louis. Meanwhile the National Farmers' Alliance appointed the same time and place for its general session, and negotiations were undertaken for the still further strengthening of the movement by the blending of the two great orders now remaining. The Alliance made three demands upon the Union, as conditions on which they would join it: (1) The name should be changed to National Farmers' Alliance and Industrial Union; (2) the word "white" should be stricken out of the qualifications for membership; (3) the question of secrecy in organization should

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be optional with each state. The first of these demands was granted and the name proposed is now the official name of the "Southern" Alliance; the second was practically complied with by the new constitution; but the third was refused. The net outcome of the conference was a failure of the attempt to unite, and for this failure the question of secrecy was the sole cause.[1] Kansas, North Dakota and South Dakota, however, deserted the "Northern" Alliance and went over to the secret order.

At this meeting in 1889, the present constitution of the National Farmers' Alliance and Industrial Union was adopted. By this instrument the powers of the organization are divided into legislative, executive and judicial. The legislative power is vested in the Supreme Council of the Order. This council is composed of the national officers, together with delegates from the various state organizations. It meets annually, elects the usual officers and makes all laws. The president, elected by this council, is empowered to interpret the laws through official rulings. Appeals from these rulings may be heard by the judiciary department, which is composed of three judges, elected for three-year terms, one judge retiring each year. In addition to farmers, membership is open to preachers, teachers and doctors residing in rural districts, as well as to mechanics and editors of agricultural journals. The two last-named classes were restricted in 1890, the former by the requirement of country residence, the latter by that of unquestioning adherence to all Alliance demands. The platform adopted at St. Louis was accepted by the Knights of Labor and it was agreed that "the legislative committees of both organizations [should] act in concert before Congress for the purpose of securing the enactment of laws in harmony with the demands." But it seems that owing to the single-tax tendencies of the Knights, the farmers were chary of any closer union.

The purposes of the Alliance are embodied in a Declaration, which is but little different from that of the original Texas organization, which in turn was substantially the same as that

[1] Proceedings Farmers' and Laborers' Union, 1889, p. 57.

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of the National Grange in 1874. The Declaration states the objects of the body to be as follows:

1. To labor for the education of the agricultural classes in the science of economical government, in a strictly non-partisan way, and to bring about a more perfect union of said classes.

2. To demand equal rights to all and special favors to none.

3. To indorse the motto: "In things essential, unity; in all things, charity."

4. To develop a better state, mentally, morally, socially and financially.

5. To constantly strive to secure entire harmony and good will among all mankind and brotherly love among ourselves.

6. To suppress personal, local, sectional and national prejudices; all unhealthy rivalry and all selfish ambition.

7. The brightest jewels which it garners are the tears of widows and orphans, and its imperative commands are to visit the homes where lacerated hearts are bleeding; to assuage the sufferings of a brother or a sister; bury the dead; care for the widows and educate the orphans; to exercise charity towards offenders; to construe words and deeds in their most favorable light, granting honesty of purpose and good intentions to others; and to protect the principles of the Alliance unto death. Its laws are reason and equity, its cardinal doctrines inspire purity of thought and life; its intentions are "peace on earth, good will towards men."

In the South the membership of the Alliance is made up of what has been called the South's third estate,[1] *i.e.* the middle class, composed of small farmers and mechanics. In 1890 it claimed 3,000,000 male members, women also being eligible. As this order is by all odds the strongest and most aggressive of the farmers' organizations, it may be well to note some features of its government. The national body is incorporated as a company without capital stock, under the provisions of an act of Congress of June 29, 1886. The state Alliances secure charters from their respective commonwealths as corporations with capital stock, and employ this capital in the establishment of business agencies. Because of its secrecy two sets of laws — the written and the unwritten — are needed in governing the

[1] A. D. Mayo, in an address, "The Third Estate of the South," delivered before the American Social Science Association, September 2, 1890.

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body; and further, because the act under which the national body is founded requires that the headquarters of the order be at the capital, the eyes of all members are turned towards Washington. To this last fact may be ascribed in some measure the activity of the chief officers. They must keep doing something in Congressional circles in order to keep up the members' interest; for "there, in the Capitol at Washington, have originated the farmers' woes, and from that source alone can come the remedy."[1] In less able hands the "unwritten law" might have become a source of endless entanglements; but under the skilful management of the men who have controlled it from the first, it has resulted in the establishment of

> a form of government closely analogous to a limited monarchy. According to [the unwritten law], all power and authority must emanate from the recognized head and permeate through the various branches to the individual membership.[2]

And, conversely, the individual wishes are given to the public through an official head, and hence command greater attention.

4. *The Colored Farmers' National Alliance and Co-operative Union.*[3] The first Colored Alliance was founded in Houston County, Texas, in December, 1886. On January 10, 1891, eleven state associations had been chartered, though the order had members in thirty states. On that date the estimated membership was 1,250,000, of which number 700,000 were adult males, and 150,000 more were males between 18 and 21 years of age.[4] A national organization was effected in 1888, and the third annual meeting was held at Ocala, Florida, in December, 1890.

Education at the present time forms a large part of missionary work; hence, because of the gravity of the race problem in

[1] Address of the President, Fourth Annual Session North Carolina Alliance, August, 1890, p. 10.

[2] Macune's address; see Proceedings Farmers' and Laborers' Union, 1889, p. 26.

[3] This organization owes its existence largely to the power of one man, — R. M. Humphrey, general superintendent of the order. Mr. Humphrey is a white man, formerly a Baptist preacher, a missionary among the negroes. He was put at the head of the Colored Alliance at the start, and has been kept there ever since.

[4] R. M. Humphrey, in a private letter.

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our national life, the work of the Colored Alliance is deserving of wide attention. In its charter its purposes are set forth as follows:

> To elevate the colored people of the United States, by teaching them to love their country and their homes; to care more for their helpless and sick and destitute; to labor more earnestly for the education of themselves and their children, especially in agricultural pursuits; to become better farmers and laborers, and less wasteful in their methods of living; to be more obedient to the civil law; to become better citizens, and truer husbands and wives.

This declaration of purposes may serve to suggest a reason why at least 70 per cent of the negroes refrained from voting in the election of 1890. They were busy making money.

5. *The Farmers' Mutual Benefit Association.* In 1883 a club known by this name was formed in Illinois. Its meetings were secret; its avowed purpose, general improvement. A national order was formed in 1887, which occupies the country from Nebraska to North Carolina, between the two Alliances, and is strongest in Illinois and Indiana. At present it seems to be becoming only an appendage to the "Southern" Alliance. In December, 1890, it claimed a membership of 150,000.

6. *The Supreme Association of the Patrons of Industry of North America* is another two-headed order which hopes in time to achieve fame. Its organizers, who live in Michigan, founded a "grand association" for that state, and a "supreme association" for the whole of North America. In October, 1890, a state order was organized in Ohio, and it is said that like action will soon be taken in New York and Wisconsin. The Patrons are troubled not a little by Alliance proselyters, and the ways of these "slick workers" are denounced in the official organ.[1] The Michigan vice-president believes the Alliance to be "merely [a] political adjunct in disguise," and asserts that the Ocala platform calls for "rabid changes" in our business methods.[1] The Michigan body held its third annual session in Lansing, in February, 1891. The order is open, women are admitted, and the enrolment of Michigan in 1890 was claimed

[1] *The Patrons' Guide*, January, 1891.

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to include 80,000 names. Their avowed purpose is "to labor together for the promotion of the interests of farmers and employees, and the good of the nation of which we are a part."[1]

7. *The National Farmers' League* was incorporated as such September 1, 1890, at Albany, New York, though it was in active operation some months earlier. The first move was made in the fall of 1889, in Massachusetts, when, just before the election, the candidates for the legislature were confronted with pledges to vote for laws against the sale of oleomargarine and Western dressed beef. The result so pleased the movers that they took steps to organize an avowedly political order, which should carry its points by non-partisan methods like that just noted. The League claims to be on foot in the states north of the thirty-sixth parallel from Maine to California, and proposes to be organized in every state of the Union by 1892.

As these various associations have developed, the advantages of combination have been very generally appreciated. The leaders of the "Southern" Alliance in particular have been endeavoring to effect a union of all the farmers' organizations, and have met with considerable success. At Ocala a union was effected between the "Southern" Alliance, the Mutual Benefit Association and the Colored Alliance. In continuation of the work a meeting was held in Washington, January 22, 1891, to which came delegates representing the "Southern" and the Colored Alliance, the Knights of Labor and the Citizens' Alliance.[2] By the terms of the Ocala agreement the confederation which was formed was bound to accept the St. Louis platform as a basis. In the confederation the committee from each order is "entitled to as many votes as it has members who are legal voters."

Besides the societies named, there are a host of state organizations, such as farmers' clubs, co-operative unions, alliances, agricultural wheels and so on, each working under some one of the larger bodies, and there are state unions, composed of representatives from the various agricultural orders in the state.

[1] Preamble to Constitution.

[2] *National Economist*, January 31, 1891.

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In addition there is a Farmers' National Congress, composed of one farmer from each Congressional district, appointed by the governors of the respective states. The latest meeting of this body was held the last week in August, 1890, in Council Bluffs, Iowa. Working in more or less unison with the farmers are the Knights of Labor and the Citizens' Alliance,[1] both of which have indorsed the St. Louis and Ocala platforms. On the other hand the American Federation of Labor will have nothing to do with the alliances, on the ground that they "are composed of employing farmers."

Demands of the Farmers.

In considering the demands that are actually expressed in the platforms of the various organizations, two facts present themselves at the outset: first, that these demands are based often on precisely contradictory theories as to the source of the farmers' troubles; second, that the demands involve a very wide departure from the ideas contained in the original "purposes" of the different orders. As to the first point, compare the complaint of the Mutual Benefit Association, that the price of the farmers' grain is "below the cost of production,"[2] with the declaration of the Grange that if the farmers would but use as much sense as men in other lines of work, "there would be much less cause for complaint of our depressed condition."[3] As to the second point, it is evident that the farmers have become infected with the restless and money-making spirit of the town and city life which is developing all around them, and are aggrieved that they cannot grow rich rapidly. They have come to believe that the lack of money is the root of all evil, and a most popular article

[1] The Citizens' Alliance is a secret organization whose purposes are identical with those of the farmers' orders, but whose membership includes classes which the latter does not admit. It originated in Kansas among the townsmen who sympathized with the farmers, and when, at Ocala, the "Southern" Alliance declined to open its doors to new classes of members, the leaders of the citizens' order proceeded to effect a national organization. It aims to include "the great body of business and professional men" who "come in daily contact with the farmer" and "not only sympathize with him, but in a business way are compelled to share his losses and misfortunes." *Cf. National Economist*, January 17, 1891.

[2] Memorial to Congress.

[3] Proceedings of the National Grange, 1889, p. 155.

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of their faith attributes this lack in their case to the machinations of Old-World capitalists.[1]

The most famous of their "demands," which has served as the model for both national and state organizations, is the St. Louis platform, adopted by the "Southern" Alliance, in conjunction with the Knights of Labor, on December 6, 1889. This platform, with the changes made by the annual meeting at Ocala, Florida, in December, 1890, is as follows:

1. We demand the abolition of national banks, [and the substitution of legal tender treasury notes in lieu of national bank notes; issued in sufficient volume to do the business of the country on a cash system; regulating the amount needed on a per capita basis as the business interests of the country expand; and that all money issued by the government shall be legal tender in payment of all debts, both public and private.][2]

2. We demand that Congress shall pass such laws as shall effectually prevent the dealing in futures of all agricultural and mechanical produc-

[1] "When the fiend of civil war was desolating the land . . . a band of men, with murderous purposes, went . . . into . . . the holy place of government, and there . . . plotted the most diabolical scheme of robbery that ever blackened a historic page. . . . Do you ask for evidence that this people were deliberately robbed by a band of men at the head of our government, who were in league with the money power of Europe? If so, please read and ponder the 'confidential' circular which was issued in 1862 by English capitalists, who commissioned one Hazard, a London banker, to propagate its principles among American bankers. . . . Here is the infernal document:

"'Slavery is likely to be abolished by the war power, and chattel slavery destroyed. This, I and my European friends are in favor of, for slavery is but the owning of labor, and carries with it the care for the laborer; while the European plan, led on by England, is [for] capital [to] control labor, by controlling wages. This can be done by controlling the money. The great debt that capitalists will see to it is made out of the war, must be used as a measure to control the volume of money. To accomplish this, the bonds must be used as a banking basis. We are now waiting to get the Secretary of the Treasury to make his recommendations to Congress. It will not do to allow the greenback, as it is called, to circulate as money any length of time, for we cannot control that.'" Seven Financial Conspiracies, p. 78. This pamphlet has been called the Union-Labor Bible, and is said to have been one of the most potent factors in bringing about the political revolution in Kansas.

[2] At Ocala, all within the brackets was stricken out, and in its place was inserted: "We demand that the government shall establish sub-treasuries or depositaries in the several states; which shall loan money direct to the people at a low rate of interest, not to exceed two per cent per annum, on non-perishable farm products, and also upon real estate, with proper limitations upon the quantity of land and amount of money. We demand that the amount of the circulating medium be speedily increased to not less than $50 per capita."

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tions; preserving a stringent system of procedure in trials as shall secure the prompt conviction, and imposing such penalties as shall secure the most perfect compliance with the law.

3.[1] We demand the free and unlimited coinage of silver.

4. We demand the passage of laws prohibiting the alien ownership of land, and that Congress take early steps to devise some plan to obtain all lands now owned by aliens and foreign syndicates; and that all lands now held by railroad and other corporations in excess of such as is actually used and needed by them, be reclaimed by the government and held for actual settlers only.

5. Believing in the doctrine of "equal rights to all and special privileges to none," we demand that taxation, national [or state],[2] shall not be used to build up one interest or class at the expense of another.[3] We believe that the money of the country should be kept as much as possible in the hands of the people, and hence we demand that all revenues, national, state [or county],[2] shall be limited to the necessary expenses of the government economically and honestly administered.

[6. That Congress issue a sufficient amount of fractional paper currency to facilitate exchange through the medium of the United States mail.][2]

[7. That the means of communication and transportation should be owned by and operated in the interest of the people as is the United States postal system.][4]

The "Northern" Alliance adopted a platform at the same time that the preceding was prepared. I give this also, because on these two documents the leaders in the political campaign of 1890 relied for guidance:

[1] Prefaced at Ocala with the clause: "We condemn the silver bill recently passed by Congress, and."

[2] Omitted in 1890.

[3] Insert after this: "We further demand a removal of the existing heavy tariff tax from the necessities of life, that the poor of our land must have. We further demand a just and equitable system of graduated tax on incomes."

[4] Demand 7, which became the sixth of the amended platform, was changed at Ocala to read as follows: "We demand the most rigid, honest and just state and national control of the means of public communication and transportation, and if this control and supervision does not remove the abuse now existing, we demand the government ownership of such means of communication and transportation."

Another plank was then added, as follows:

"7. We demand that the Congress of the United States submit an amendment to the constitution providing for the election of United States Senators by direct vote of the people of each state."

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Whereas, the farmers of the United States are most in number of any order of citizens, and with the other productive classes have freely given of their blood to found and maintain the nation; therefore be it

Resolved, that the public land, the heritage of the people, be reserved for actual settlers only, and that measures be taken to prevent aliens from acquiring titles to lands in the United States and Territories, and that the law be rigidly enforced against all railroad corporations which have not complied with the terms of their contract, by which they have received large grants of land.

2. We demand the abolition of the national banking system and that the government issue full legal tender money direct to the people in sufficient volume for the requirements of business.

3. We favor the payment of the public debt as rapidly as possible, and we earnestly protest against maintaining any bonds in existence as the basis for the issue of money.

4. We favor a graded income tax, and we also favor a tax on real-estate mortgages.

5. We demand economy and retrenchment as far as is consistent with the interests of the people in every department of the government, and we will look with special disfavor upon any increase of the official salaries of our representatives or government employees.

6. We favor such a revision and reduction of the tariff that the taxes may rest as lightly as possible upon productive labor and that its burdens may be upon the luxuries and in a manner that will prevent the accumulation of a United States Treasury surplus.

7. The stability of our government depends upon the moral, manual and intellectual training of the young, and we believe in so amending our public school system that the education of our children may inculcate the essential dignity necessary to be a practical help to them in after life.

8. Our railroads should be owned and managed by the government, and be run in the interest of the people upon an actual cash basis.

9. That the government take steps to secure the payment of the debt of the Union and Central Pacific railroads and their branches by foreclosure and sale, and any attempt to extend the time again for the payment of the same beyond its present limit will meet with our most emphatic condemnation.

10. We are in favor of the early completion of a ship canal connecting the great lakes with the Gulf of Mexico, and a deep water harbor on the southern coast in view of opening trade relations with the Central and South American states, and we are in favor of national aid to a judicious system of experiments to determine the practicability of irrigation.

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11. We sympathize with the just demands of labor of every grade and recognize that many of the evils from which the farming community suffers oppress universal labor, and that therefore producers should unite in a demand for the reform of unjust systems and the repeal of laws that bear unequally upon the people.

12. We favor the Australian system, or some similar system of voting, and ask the enactment of laws regulating the nomination of candidates for public office.

13. We are in favor of the diversification of our productive resources.

14. We [will] favor and assist to office such candidates only as are thoroughly identified with our principles and who will insist on such legislation as shall make them effective.

The various state orders of the "Northern" Alliance adopted platforms in substantial conformity to the foregoing. But in January, 1891, at a session of the national order in Omaha, all the resolutions but numbers 2, 7, 8, 11 and the second clause of 4 were dropped, and further demands were made as follows: the election of President, Vice-President and United States Senators by popular vote, restriction of the liquor traffic, women's suffrage, liberal pensions, passage of the Conger lard bill, free and unlimited coinage of silver and the increase of the currency to $50 per capita. The convention pledged itself to demand "that the government allow us to borrow money from the United States at the same rate of interest as do banks." It was resolved not to affiliate with either the Republican or the Democratic party, and a declaration was made in favor of nominating a national ticket in 1892, but by a convention in which "representation shall be one delegate from each state in the Union."

Proceeding now to a classification and special consideration of the "demands," the following table will show the attitudes of the various bodies on financial matters, in so far as I have been able to get them. Under the caption "Patrons of Industry," the demands of the "grand association" of Michigan are given. The "supreme association" had no standing outside that state prior to October, 1890, and but little after that date.

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	Grange.	"Northern" Alliance.	"Southern" Alliance.	Colored Alliance.	Mutual Benefit Association.	Patrons of Industry.
Abolition of national banks	×	×	×	×	×	×
Free coinage of silver	×	×	×	×	×	×
"Sufficient" issue of paper money	×	×	×	×	×	×
Loans on land	×	×	×	×	×	
Establishment of sub-treasuries	?		×	×	×	
Income tax		×	×	×	×	
Tariff revision	×	×	×	×	×	×
Tax on evidences of debt		×	×			×

Our banks of issue find no defenders among the platform makers. The *Journal of Agriculture*, official organ of the Farmers' and Laborers' Union of Missouri (the name of the Missouri branch of the "Southern" Alliance), has the following in its issue of August 14, 1890:

These [national] banks were conceived in infamy and were organized for no other purpose but to rob the many for the benefit of the few. The establishment of national banks was of the same character of vicious legislation that demonetized silver and changed the terms for the payment of our national bonds. The infamous scoundrels who perpetrated these frauds, if they had lived in any other country under the sun, would have been hung without judge or jury or sent to the penitentiary for the rest of their natural lives, either of which would have been no more than they deserved.

The demands for a "sufficient" issue of paper money cover a wide range, from the unqualified call for a purely fiat currency of "$50 per capita," to the cautious declaration of the Patrons of Industry: "If for any reason the output of gold and silver should not keep pace with the increasing necessities of the country, we are in favor of increasing the issue of United States legal tender notes." Indiana is the only section noted that recognizes an "international bearing" in the matter of silver, and asks for negotiations on the subject.[1] The proposal to put this increased volume of money into circulation by means of loans on land, at not more than two per cent interest, is quite

[1] *Alliance Advocate* (Indiana), November 27, 1890.

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general; for, as the farmers interpret Congress's[1] dealings with the Pacific railroads, and the present proposition for a 100-year extension of the Union Pacific debt, governmental foreclosure is a remote and improbable contingency. The president of the Wisconsin Alliance had a plan whereby farmers could use their land as a banking basis, on which to issue bills. Besides getting the use of this money from the government without interest for from one to twenty years, he assured his listeners that about ten per cent of the bills issued by the banks never came back, and constituted a clear gain which under his plan would accrue to the farmers.

But as land is limited in amount, and once mortgaged, unavailable for further loans except by the Wisconsin plan, which seems to have no following, the sub-treasury scheme is relied upon as promising the most effective channel for the "sufficient" issue of money. The leading features of the bill as presented to the last Congress[2] are as follows: In each county which raises and sells $500,000 worth of grain, cotton and tobacco, government warehouses are to be built in which any surplus may be stored. The producer may draw treasury notes to the amount of eighty per cent of his deposit, at the same time giving a lien on his deposit, and signing an agreement to pay storage charges and one per cent interest on the money advanced. I am not sure of the position of the Grange on this scheme, as its utterances have been dubious. At its meeting in 1890, in Atlanta, it demanded that the government should lend its credit directly to the people "on land or other good securities." The Michigan State Grange in December was "surprised that the National Grange should allow itself to be carried away by the clamor," declared that the scheme would "prove a curse instead of a blessing," and denounced it roundly. The Missouri Farmers' and Laborers' Union is also bitterly opposed to the measure. The extract from their official organ relating to the national banks, quoted on page 295, was

[1] Address, Second Annual Session, 1890.

[2] Senate bill No. 2806, House bill No. 7162. The bills agree in all essential respects.

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followed by the remark that the sub-treasury scheme is "a measure more infamous than the national banks." The number of warehouses needed, on the present basis of production, is estimated at about 817, "or just about the present number of national banks."[1] Of these New York would get 8; Texas, 61; Massachusetts, 0; Arkansas, 36; Pennsylvania, 20; Illinois, 48.[1]

The money question is uppermost in the farmer's mind, and so, as is natural, he favors an income tax, "heavily graduated," in the words of the Mutual Benefit Association's memorial, and affecting "especially the income of rich corporations."

The idea that "the tariff is a tax" has only very lately made much headway among the farmers of the North and West. The California and Indiana State Alliances make no reference to the subject in their platforms of 1890. The Grange, in 1889, mumbled over the subject in phrases that would do credit to a professional politician;[2] and the Mutual Benefit Association followed the same lead.[3] Whether or not the "Southern" Alliances referred to the tariff in the St. Louis platform, is purely a matter of inference, and the Ocala plank is not very radical. But the Minnesota trump gives no uncertain sound:

> We demand that the war-tariff, which has too long survived the object of its creation, shall be radically revised, giving very material reductions on the necessaries of life, and placing raw materials upon the free list, to the end that we may compete with the world for a market; and that such luxuries as whiskey and tobacco shall in no manner be relieved from internal taxation, till the high protection tariff has been wholly divested of its extortions.[4]

Minnesota also asks for laws that "will make the hidden property pay equal taxes with the visible property."[4] In a number of the legislatures, efforts are making now (the first quarter of 1891) to enact measures which shall secure the listing for taxation of notes and other evidences of debt, by requiring a tax-assessor's stamp on the same as a necessary preliminary to

[1] *National Economist*, April 19, 1890.
[2] Proceedings, Twenty-third Annual Session, pp. 122, 123.
[3] Memorial to Congress.
[4] Declaration of Principles, Ninth Annual Session, 1890.

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legal collection. Taxation of mortgages is emphatically demanded from all sides, and the Massachusetts plan for effecting this is in good repute.

General Superintendent Humphrey, of the Colored Alliance, in his annual address at Ocala, came out distinctly in favor of a single tax on land. The Grange, on the contrary, expressly condemned the land-tax in 1889.

Demands that may be grouped generally as relating to the police power are illustrated by the following table:

	Grange.	"Northern" Alliance.	"Southern" Alliance.	Colored Alliance.	Mutual Benefit Association.	Patrons of Industry.
Adulteration of food:						
condemned in general	×		×		×	×
condemned in certain articles	×	×				
Liquor traffic:						
total suppression demanded			*a*			×
restriction demanded		×				×
Corporations:						
governmental control and possible ownership of existing railway, telegraph and telephone lines	?	×	×		×	*b*
governmental construction of trunk railways		×				
Patent laws, modification of					×	×
Land:						
prohibition of alien ownership	×	×	×		×	×
reclamation of unearned or unused grants	?	×	×			×
restriction of size of holdings	×				×	

a State orders in Indiana, California and North Dakota.

b Under the influence of the Patrons, a bill was introduced in the Michigan legislature looking to state purchase and operation of the Michigan Central Railroad. — Chicago *Tribune*, January 30, 1891.

The interest in food adulteration has of late centred around two measures, the Paddock Pure Food bill, and the Conger Pure Lard bill. The former is general in its nature, the latter is of a piece with the oleomargarine law. It is claimed by some that the two bills are only a part of a scheme designed by shrewd conspirators who hope, by stirring up war between the

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two "monopolies" interested, — cotton-seed oil and lard, — to draw the attention of the people away from the real cause of the farmer's ills, *i.e.* vicious financial legislation.[1] The liquor question arouses but little interest in the South, probably because there local option and practical prohibition are already well established.

The railroad problem is another matter that has aroused but little feeling in the South. The "Southern" Alliance, in 1887, made no mention of railway troubles, nor has it in later manifestoes done more than formulate general demands. But the Mutual Benefit Association demands

> that they [the railways] should not be permitted to water their stock; . . . that they should not recklessly squander their earnings and thus necessitate exorbitant charges for services rendered the public; that they be requested to manage their business with reasonable economy, that they may serve the public effectively and cheaply. If these ends cannot be secured through corporate control and management of railways and telegraphs, then we demand that the corporations be dissolved, their franchises resumed, and their tangible property taken and paid for by the government, and that they be operated by the government for the good of the people.[2]

The Union and Central Pacific railways are chronic grievances with all the agricultural orders. The "Northern" Alliance, in 1887, believed

> that the ultimate solution of the transportation problem may be found in the ownership and operation by the government of one or more trans-continental lines, with their connections and feeders; [and further] that the present situation of the Union Pacific railroad offers a fair opportunity for such an experiment.[3]

In 1891 this belief had become certainty, and the Alliance demanded that the Pacific railroads "be taken in charge by the government, and run in the interests of the people, with a view to extending both these lines to the eastern seaboard."[4] In the summer of 1890, a movement began — so far as I can learn, in Missouri — against government ownership of transportation

[1] *National Economist*, February 14, 1891.
[2] Memorial to Congress.
[3] Minneapolis, October, 1887.
[4] Omaha, January, 1891.

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lines. Besides the great cost and increased taxation which such a step would necessarily entail, it was feared that the government "might take charge of something we did not want it to."[1] Accordingly, at Ocala, the St. Louis platform was so modified as to ask first for a trial of "government control and supervision." The "Northern" Alliance, in 1889, after commending the Interstate Commerce law, continues:

> We favor even more restrictive measures. The proposed plan of making the foreign corporations subject to the state courts, in the states where they do business, and depriving them of the power to remove these cases to the United States courts, meets our approval.[2]

In April, 1890, while the executive committee of the Minnesota Alliance was in session, word came that the United States Supreme Court had decided that the state railroad commission (and inferentially the state legislature) had no power to prescribe rates on the railroads of the states. Thereupon the committee declared that this decision signified "the subjection of the people and the states to the unlimited control of the railroad corporations of this country." It was further resolved to "appeal from this second Dred Scott decision to the people of the nation . . . with a request that they unite with us in an effort to so amend the constitution as to abolish this new slavery."[3]

No set of resolutions, whether township or national, is complete without a denunciation of alien ownership of land. An Iowa county goes farther, and demands national prohibition of alien ownership of any kind of property "for the purpose of gaining wealth."[4] All orders demand that the public lands shall be held for actual settlers only. The "Northern" Alliance asked for governmental experiments in irrigation,[5] but the Grange, in 1889, could not see any benefit to be derived by increasing the farming area so long as the present tariff policy

[1] *Journal of Agriculture* (Missouri), July 24, 1890.
[2] Des Moines, Iowa, January, 1889.
[3] Proceedings of Executive Committee, St. Paul, April 1, 1890.
[4] *Alliance Advocate* (Indiana), November 27, 1890.
[5] St. Louis, 1889; Omaha, 1891.

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was maintained.[1] The Mutual Benefit Association holds "that private ownership in real estate should be limited to use and occupation of the owner."[2] The Connecticut Farmers' League would have the constitution so amended as to enable Congress

> to make it easily possible for any one desiring to own and occupy sufficient land from which to gain a livelihood, by obliging the largest landholders, when necessary to this end, to sell enough of their land for this purpose on easy terms and at a price not exceeding its assessed value for taxation.[3]

The influence of the Knights of Labor may be traced in various planks of state platforms. Thus, the Michigan Alliance demands an eight-hour day "in factories, mines and shops"; Nebraska favors eight hours "except on farms." But a Missouri union, "profoundly convinced that every interest of the farmer will be best secured by preventing over-production," accordingly resolved that the welfare of the class depended on reducing both their acreage and their hours of labor.[4] Mississippi wants convict labor used in making cheap cotton-bagging; Minnesota would employ it in the manufacture of cheap binding-twine. In several states — Indiana, South Dakota and others — Pinkerton men are denounced. Louisiana[5] and North Carolina[6] promise to use the influence of their respective state orders to maintain law and order.

Besides the demands already mentioned, there is a large mass not susceptible of classification. The pension-crop is one of Indiana's most productive industries, and so the Alliance of that state favors it, though "opposed to private pensions." The Mutual Benefit Association favors liberal pensions to those disabled in service, but opposes "retaining a list of retired office-holders either civil or military, as pensioners. . . . It is unrepublican, and smacks strongly of aristocracy and

[1] Proceedings, Twenty-third Session, p. 123.
[2] Memorial to Congress.
[3] *To-day* (Boston), December 11, 1890.
[4] *Journal of Agriculture* (St. Louis), August 14, 1890.
[5] Declaration of Purposes.
[6] Proceedings, Fourth Annual Session of the State Alliance, p. 33.

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royalty."[1] Simple and democratic they mean to be, according to the resolutions, and they pledge themselves to rear their children to respect a farmer's life.[1] Kentucky wishes to put this reform on a legal basis and so demands "that our legislature enact laws that will tend to make industrial and 'moral worth,' not wealth, the true standard of individual and national greatness."[2] The merit system in the regulation of our civil service gets no recognition in any platform. The Mutual Benefit Association memorial reads:

> We are opposed to all tenure of office either during life or good behavior. . . . If this is not the people's government, whose government is it? If it is the people's government, who should choose their officers?[1]

And so they demand the election of United States judges for limited terms, by popular vote. The demand for election of President, Vice-President and United States Senators by popular vote is quite general, and some states wish to elect postmasters in the same way. The Illinois Mutual Benefit Association wishes to wipe out all appointive state offices.[3] California demands an educational qualification for the exercise of the elective franchise, but no discrimination on account of sex.[4] In the last demand the "Northern" Alliance[5] and the North Dakota state organization[6] concur. All the orders unite in demanding the adoption of the Australian ballot system, and to date (May 1, 1890) legislatures of eleven states have adopted it in sessions of 1891.

A Kansas Alliance refused to support for Congress any lawyer or national bank officer.[7] Virginia voters ostracized the "representatives or paid attorneys of railroad transportation companies or other corporations."[8] Minnesota refuses membership to all railroad employees and stockholders, provides for con-

[1] Memorial to Congress.
[2] Joint demand of Alliance, Wheel and Knights of Labor, January, 1890.
[3] *Alliance Advocate* (Indiana), November 6, 1890.
[4] Platform for 1890. [5] Platform for 1891. [6] Platform for 1890.
[7] *Leavenworth County Kansas Farmer*, June 4, 1890.
[8] Declaration of Principles, August 20, 1890.

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ventions to nominate state tickets and heads off bolters by prescribing: "No person shall be a member of any such nominating convention unless he . . . pledges himself publicly to abide by the action of such convention."[1] Except in places where they believed themselves strong enough to sweep everything before them, the farmers did not nominate tickets, but presented to candidates already in the field copies of their demands with appended pledges, and asked for signatures. The following is a copy of the Missouri pledge, and the instructions to the canvasser, as they appeared in the "official organ":

I hereby pledge myself to work and vote for the above demands irrespective of party caucus or action.

Name of candidate _____
Politics _____
Office _____
Post-office _____
County _____
State _____

Cut the above out and have every candidate, irrespective of party, sign, and put these contracts into the hands of your county secretary under the supervision of your county executive board. If any candidate refuses to sign unqualifiedly, vote against him and use your influence to elect those who do sign, irrespective of party.

The use of this pledge was called "applying the yard-stick." Nor is the measuring process to end with election day. From many quarters lobbying is denounced roundly, and a Missouri union resolved to "demand that the state furnish any person requesting it, a printed account of how each senator and representative vote on all bills brought before the legislature."[2]

What the red rag is to the traditional bull, a trust is to the modern agricultural reformer. Every set of resolutions contains some clauses that stigmatize these organizations. Various states ask "that gambling in products which are articles of food be made a criminal offence"; and yet the Minnesota Alliance, in

[1] Constitution, § 7. [2] *Journal of Agriculture* (St. Louis), June 19, 1890.

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the preamble to its constitution, says that one purpose of the order is "to obtain higher prices for all that the farmer produces, and cheapen prices for all that he consumes of others' products." To get the higher prices, an Illinois lodge of the Mutual Benefit Association, "believing that the farmers' products are far below the average cost of production, and believing that agriculturists can through their organizations control the market," resolved to request their general assembly, the Grange and the Alliance, "to fix the day and date for taking all the cattle, hogs and grain off the market in this month for twenty days."[1] The Chicago Board of Trade is a sore grievance to Illinois farmers. The Mutual Benefit Association's assembly of that state declared it to be "a den of thieves," and denounced all such bodies "as whited sepulchres, full of dead men's bones — men ruined by these gambling institutions."[2] These are hard words, and yet expressions in the great majority of "demands" are well summed up by the Pennsylvania Alliance:

> *Resolved*, that notwithstanding nearly all classes of persons, excepting the farming and industrial classes, have had special legislation beneficial to themselves, yet as we regard class legislation [as] wholly wrong and inequitable, we shall not demand it for ourselves, but we shall demand from henceforth equal and exact justice to all.[3]

On the question of education, the attitude of the farmers is altogether creditable. They indorse the public schools, and quite generally the cause of higher education. North Carolina's recommendation of "an increase of our present public-school tax of at least twenty-five per centum,"[4] shows no more than the common spirit. South Dakota has a large foreign population, yet, despite the agitation in the Northwest during the past two years for parochial schools, the state Alliance in 1890 demanded an English education for each child. An almost universal demand goes up for state manufacture of text-books. This, of course, means uniformity and long tenure, — features

[1] Decatur, Illinois, December, 1890.
[2] *Alliance Advocate* (Indiana), November 6, 1890.
[3] Resolutions, November, 1890.
[4] Fourth Annual Session, p. 35.

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very likely to injure the work of the schools. Arkansas, however, has a purpose to accomplish in having the state control the texts. After stating that

> the very quintessence of democracy, the bed-rock of a republican form of government, and the perpetuity of the American Republic, rests upon the proper training and education of the youth of our land, and especially in the love of our land and country,

and that our land is overrun with trusts, among which is "a gigantic combine [of] publishers of school-books," the Alliance announces that

> there has been eliminated from the school-books nearly all matter calculated to instil in the minds of the youth a love of independence and liberty — for instance, extracts from the speeches of such patriots as Washington, Jefferson, the two Adamses, Clay, Webster, Calhoun and Lincoln, of our own land, and extracts from Burke, Pitt, Walpole and others, of the Old World. We believe the omission has been done with the deliberate intent and malice aforethought to destroy the last vestige of patriotism and dam up the fountain of independence in our youth.

The demand which follows this calls for a department of public printing, and the appointment of a committee to prepare a series of books fitted "to instil and beget within our children a deeper love of country and an abiding spirit of patriotism."[1]

What has been accomplished?

The great work which the Grange set before itself was to break down the farmers' isolation. This was conceived to be the first essential step in bettering their condition. This purpose has been kept steadily in view, and to-day all over the land are Grange halls, built by the local lodges, wherein are discussed matters ranging all the way from international law to athletics for boys. In Pennsylvania are "parks" — one of five thousand acres — in which are held annual encampments of the farmers' orders. Able speakers are secured, model buildings exhibited, and in many ways the meetings are made centres of educational force.[2] The other orders do less educational work than the

[1] Little Rock, July 24, 1890.

[2] Proceedings, Twenty-third Annual Session National Grange, p. 59.

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Grange, because they are convinced that their troubles are due not to ignorance, but to vicious legislation.

Co-operation has been attempted as a rule only in distributive operations. Missouri is dotted over with stores run on the Rochdale plan. The much-tried Texas co-operative agency[1] is at last, I believe, dead.[2] There are twenty-one (or more) state business agencies, — joint stock corporations, — the shares of which are held by local lodges. These do a purely distributive business.[3] In 1888 the ubiquitous Macune called a meeting of state business agents then in being.[4] These met in New Orleans in May of that year and partially organized an association. In 1890, at Ocala, the association asked to be constituted a committee of the "Southern" Alliance, and its request was granted.[5] In Kentucky local enterprise takes the form of tobacco warehouses; elsewhere in the South are co-operative cotton-gins; in Nebraska and the Northwest, farmers' elevators form one of the means of saving. Farmers' insurance companies constitute another field worked in the Western states. Iowa is said to have 116 of them.[6] In marked contrast to this spirit of self-help, the Connecticut farmers call for state insurance.[7] In productive co-operation, dairying and milling seem to be the only lines at present worked to any extent.

The farmers were not idle during the political campaign of 1890. In most places in the South and West politicians seemed to have a most deadly fear of them. In many localities the action of the farmers was analogous to that tersely described by the president of a state Alliance in a private letter: "Being Democrats and in the majority, we took possession of the Democratic party." In the West, party lines were discarded, and either straight Alliance, or else independent, *i.e.* fusion tickets were run. The report of the chairman of the Kansas central com-

[1] For a narrative of its trials, see *Popular Science Monthly*, April, 1890.
[2] *National Economist*, September 6, 1890.
[3] *Wall Street Farmer*, official organ, and *supra*, p. 286.
[4] *Wall Street Farmer*, January 10, 1891.
[5] Proceedings, Ocala Session, p. 29.
[6] *Alliance Advocate* (Indiana), December 18, 1890.
[7] *To-day*, December 11, 1890.

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mittee showed the expenses of the campaign in that state to have been $1200. For a party but six months old, in view of the work it did, this speaks well for the spirit which animated the leaders.[1]

The following table shows what the farmers have accomplished in the last elections.

States.	No. members in the Senate.	No. members in the House.	No. of Republicans in both.	No. of Democrats in both.	No. of farmers' representatives in both.	No. of Republicans pledged to support farmers' demands.	No. of Democrats pledged to support farmers' demands.	No. of Congressmen pledged to support farmers' demands.	Remarks.
Illinois	51	153	100	101	3	10	15	...	
Indiana *	50	100	...	...	...	...	...	...	Fifteen Senators and forty-five Representatives are farmers by occupation.
Minnesota	54	110	69	58	31	3	3	1	
Nebraska	33	100	23 or 26	38 or 35	72	...	...	2	
North Dakota *	...	...	61	22	10	...	...	...	
South Dakota	45	124	81	20	68	...	...	...	One U. S. Senator.
Alabama	33	100	3	130	...	...	75 or 80	1	One U. S. Senator claimed.
Florida	32	68	1	99	...	...	52	...	
Georgia	44	175	4	215	...	2	164	6	All the state officers are Alliance men.
Kansas *	40	125	64	10	90	1	...	5	One U. S. Senator.
Kentucky	...	...	...	...	...	...	...	4	No election. Seventeen Alliance members of state constitutional convention.
Missouri	34	141	...	...	5	29	105	14	Railroad Commissioner an Alliance man. Union Labor Ticket complicates matters here.
Mississippi	...	...	...	...	...	...	...	2	Half the legislature is Alliance and about half the constitutional convention.
North Carolina	50	120	25	145	...	...	...	8	"All the Democrats and half the Republicans pledged."
South Carolina	36	124	4	156	...	...	105	4	One U. S. Senator.
Tennessee	22	53	4	71	...	...	33	...	Alliance governor.
Texas	...	...	...	...	...	...	...	...	Information refused.
Virginia	...	...	...	...	...	...	...	5	No state election.

These returns, except the three starred, are derived directly from officials of the farmers' orders in the respective states. In the territorial legislature of Oklahoma the Alliance has six members, enough to hold the balance of power in some of the stormy scenes enacted there. In Michigan, when the legislature assembled, the Senate stood: Democrats and Republicans

[1] *National Economist*, December 6, 1890.

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fourteen each, Patrons of Industry four, and a Democratic lieutenant-governor. Here, too, the farmers openly counted on using the balance of power. But the Democrats, by a bit of political sharp practice, unseated two Republicans and thus got matters into their own hands.

In the next Congress it is claimed that there will be forty-four Alliance members, with Senators from six states in sympathy with the farmers' demands.[1]

Sectionalism utterly failed to interest the farmers, though use enough of it was made by bitter partisans. In the South the reform press jeered the "old wah horses" and told the Democrats who adhered to dead issues that something fresh was needed.[2] In the West, and especially in Kansas, the extreme bitterness of the old party press contributed principally to swell the demand for a third party, which was supported at Ocala mainly by the representatives from that region. The Alliance in the South was consistent with the declaration made in its first set of resolutions and reaffirmed in all subsequent sets — that it would be non-partisan. Governor Tillman of South Carolina was not nominated but only indorsed by the Alliance; and so in the other Southern states, all that was done was accomplished within the old party lines; when defeated there, the farmers accepted the situation. The Iowa farmers worked on substantially the same plan, and had but one Congressional candidate in the field, who, however, was defeated. But in January, 1891, a state Alliance was formed in Iowa which adopted the secret work, and resolved to put a full state ticket in the field this coming fall. The over-eager advocates of a third party, led by the socialist-union-labor wing of the Kansas delegation at Ocala, on December 15 issued a call for a national convention to meet in Cincinnati February 23, 1891. But the Supreme Council of the "Southern" Alliance refused to unite in the call. Instead, it referred the matter to its committee on confederation, — the committee authorized to work for the consolidation of the many unions on the basis of the St. Louis

[1] *National Economist*, November 15, 1890.

[2] *Alliance Herald* (Montgomery, Alabama), October 16, 1890.

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platform. This committee met in Washington January 22, 1891, and issued invitations to all industrial organizations in the nation to send delegates to its next annual meeting. By thus referring the matter to the states, it bides the time when its constituents shall speak. The cold reception of the call for February, 1891, led its agitators to postpone the date until May 19.

President Polk, of the "Southern" Alliance, is quoted as saying of the election of 1890: "People who believe that the issue was won on tariff lines are mistaken. It was financial reform that caused the sweep."[1] The *National Economist*, in its issue of July 19, 1890, said: "The platform of the order only contains two planks, and they are: more money and less taxes." The president of the Business Agents' Association, in December, 1890, said: "There are thousands who will take more interest in securing an additional pound of sugar to the dollar, or five cents off the yard of goods, than they will in the whole political movement."[2] These expressions indicate the essential character of the movement. Its great end is greater returns for engrossing labor. The farmer is making a desperate effort, by the use of costly machinery, to apply the methods suited for large production to the conditions of a small hand-worker's field. He is fighting over again the old battle of individual *versus* combined force, and is chafing under the dread of coming defeat. For a long time he had an abundance — for his former standard of living. But, impressed now with the notion that government — that mysterious source of good and evil — has been bestowing favors on others, he clamors for his share of the paternal bounty. He asks for free silver and a "sufficient issue" of paper, merely because he sees that as matters stand there is not enough to satisfy all. If he is at last convinced that before he can get more, more real goods must be produced, it is highly probable that he will see the whole mass of paternalism wiped off the statute books before he settles down again to field work.

[1] Chicago *Inter-Ocean*, November 22, 1890.
[2] *Wall Street Farmer*, January, 1891.

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Though the farmers profess great desire for education, they have cut off one source of self-culture by boycotting all papers which are so imprudent as to publish any criticisms on their course.[1] At Ocala a National Reform Press Association was formed, whose purpose is to counteract the numerous falsehoods given out by a subsidized, *i.e.* non-Alliance, press.[2] The editors composing this association are obliged to sustain the St. Louis platform in every particular. Failure so to do subjects them to suspension from the Alliance by the national president.[3] All this indicates narrowness, and yet one can find excuse for the feelings shown, after reading a few of the columns of mingled abuse, misrepresentation and ridicule, which so many papers published in 1890, under the heading "Alliance News."

There is a phenomenon known to quarrymen as "creeping," — that is, the expansion of deep-bedded rock-strata when relieved of the pressure of the overlying mass, which may be used as a figure of the farmers' movement. For a time the rock moves with irresistible force; but when the mass has become adjusted to its natural level, the motion ceases. If we are to believe the farmers, all they ask for is to be freed from the burdens of others, and given a chance to take their natural position. There are cheering signs in the agitation. A new body of men is taking upon itself political responsibilities. These men are orthodox in religion, earnest, honest, hard-working, — the very class whose active participation in civil affairs is desirable. If they go wrong it will be the fault of their heads, not of their hearts; and no one will be more to blame than he who, knowing how to instruct, does nothing but sneer or find fault.

FRANK M. DREW.

[1] The executive committee of the "Southern" Alliance, in an address to the order, approved June 23, 1890, advised that papers that seek "to impair our strength or unity . . . shall no longer receive in any manner the countenance or support of members of our order." The address further advised that business firms should be notified that the patronage of the order would be withdrawn if they continued to advertise in the boycotted papers.

[2] *National Reform* (St. Louis), January 1, 1891.

[3] Ocala Proceedings, p. 22.

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BIMETALLISM IN FRANCE.

SO large a space in the silver debate of the past fifteen years has been assigned to the example of France, that I am moved to a particular examination of that matter. It has been repeatedly said and scarcely questioned that France adopted the double standard in 1803 at the ratio of 15½ to 1 and maintained it till 1873, and that during all that time gold money and silver money circulated there side by side. This example has been constantly used as evidence to show that the United States might safely adopt a double standard now. That a concurrent circulation of the two metals is entirely possible, has become a conviction with many who would be opposed to the free coinage of silver if they were convinced that gold would be driven out of the circulation. I shall show that France did not adopt the double standard in 1803, and that she never had a concurrent circulation of the two metals except at brief intervals when the market price of gold happened to be about 15½ times that of silver.

The French monetary law of 1803 and several of the documents leading up to it were collected and published by Chevalier, in the year 1859, as an appendix to his work entitled *Baisse probable de l'or*. The same writer in another work[1] has given us a review of these documents, showing that the public authorities of France supposed that they were adopting, and did in fact adopt, the single silver standard in the act of the 7th Germinal, year XI (March 28, 1803). Mr. Dana Horton, in his valuable appendix to our government's *Report of the Paris Monetary Conference of* 1878, supplies two documents of earlier date than those reproduced by Chevalier. One of these is Calonne's defence of himself against the charge of fraud in connection with the French recoinage of 1785. The other is the report of the monetary commission of 1790 to the National Assembly.

[1] La Monnaie, 2d edition, pp. 195–222.

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Let us first glance at the law of 1803 itself. It consists of twenty-two articles consecutively numbered under two titles. The first title is "Of the Fabrication of Coins," the second is "Of the Verification of Coins." But before the first title stand these words:

General Provision. Five grams of silver, nine-tenths fine, constitute the monetary unit, which retains the name of franc.[1]

The French heading, "*Disposition Générale*," is commonly translated in English publications as "General Dispositions." Apart from the fact that the noun substantive here used is not plural, the English word "disposition" does not express the meaning of the French word when used as a law term. Fleming and Tibbins give the meaning thus: "*point que regle ou que decide une loi;* provision, proviso, stipulation." Therefore it would be correct to consider the first paragraph as a "general provision" to which all the others are subordinate and special, even if we had nothing else to guide us. This general provision is that a certain weight of silver of a certain fineness is the monetary unit, which shall govern everything else in the law. Now what was to be done with gold? Title I tells us in these words:

Article 6. There shall be coined gold pieces of 20 francs and of 40 francs.

Article 7. Their fineness is fixed at nine-tenths fine and one-tenth alloy.

Article 8. The twenty-franc pieces shall be struck at the rate of 155 pieces to the kilogram, and the forty-franc pieces at that of $77\frac{1}{2}$.

There is an interesting history connected with this legislation. My thesis is that the legislators of France intended to establish, and did establish, the single silver standard, instead of the double standard which had existed down to the time of the Revolution, and that they intended that the gold money should be recoined whenever the market ratio should sensibly vary from that of $15\frac{1}{2}$, but that this intention was never carried out.

[1] "Disposition Générale. Cinq grammes d'argent, au titre de neuf dixièmes de fin, constituent l'unité monétaire, qui conserve le nom de franc."

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Under Article 8, five hundred grams of gold would be coined as 1550 francs. Under the general provision five hundred grams of silver would be coined as 100 francs. Thus the ratio would be $15\frac{1}{2}$ to 1. Chevalier says that this was the relation really existing in the market at the time.[1] Professor Bowen, in his minority report of the United States monetary commission of 1876 (page 146), says that it was not exactly the market ratio. He puts the difference at one per cent. Mr. Dana Horton, in the official report of the Paris Monetary Conference of 1881, says :

> At London, as we have already noted, the price of gold rose above 15.21 in 1798, while for Hamburg Soetbeer gives for the period immediately preceding 1803 an average of about 15.40, while for 1802 he gives the rate of 15.26. Evidently we have here the well-known phenomenon of local prices. [Page 173.]

It should be noted in passing that the ratio of $15\frac{1}{2}$ to 1 had been fixed by King Louis XVI for the recoinage of gold in the year 1785, Calonne being then comptroller-general of the finances. The legal ratio of $14\frac{5}{8}$ which had existed from 1726 had so far departed from the market ratio that gold had almost wholly disappeared from the French circulation. If any gold money was to be retained, recoinage was necessary at a new ratio. Calonne decided to adopt that of $15\frac{1}{2}$. He was afterwards attacked with various charges of misconduct, including that of frauds in the recoinage. Talleyrand says in his *Memoirs*, recently published, that Calonne was not familiar with this subject himself, but that he followed the advice of a broker named Madinier. He adds that the recoinage was necessary and was not fraudulent, and that the charges brought against Calonne were a part of the political intrigues of the time. Calonne himself enumerated the recoinages that had taken place from the reign of St. Louis to his own time, and claimed that his was the only one that was not undertaken with the motive of replenishing the treasury at the expense of the people. In support of the ratio of $15\frac{1}{2}$, which he had chosen, he cited quotations from

[1] La Monnaie, p. 216.

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the metal market to show that the true ratio at the moment at Paris was $15\frac{1}{8}$. But the legal ratio in Spain, he said, was $15\frac{7}{8}$, in Portugal $15\frac{3}{4}$, in England $15\frac{1}{4}$, and looking at the advancing tendency of gold and at the example of surrounding nations, he thought that $15\frac{1}{2}$ would be a happy medium, and would for a long time avoid the necessity of another recoinage. The recoinage of 1785 did, however, make a serious disturbance in the circulation at the moment, pushing silver out of the country to such an extent that the monetary commission of 1790 recommended another change in the ratio, *viz.*, to $14\frac{7}{9}$.

The fact that the ratio of $15\frac{1}{2}$ had been chosen in 1785 and was actually existing in the coinage of France had some influence in determining the ratio in 1803, but was not actually decisive. What was decisive was the fact that there were at that time no signs of speculation in either of the metals tending to carry one or the other out of the circulation.

I.

We shall first examine the report of the monetary commission of 1790 (that of Fortbonnais), for the reproduction of which we are indebted to Mr. Horton. Much of this document, as of all the others, relates to the legal and market ratios, showing how difficult it was to bring them into harmony and keep them there, and how mischievous were the consequences of their falling out of harmony. One point set out with clearness in this report is that gold is the favorite metal of commercial nations because it is easy of carriage, and that every such nation can get all the gold it requires without having mines of its own. At the same time, it was said:

> The territorial extent of France, her population, and the mode in which her manufactures are for the most part carried on, with small capital, indicate the need of preferring the metal which best adapts itself to division into small parts [*i.e.* silver].

After adverting to the fact that it is a physical impossibility to tie the two metals together by a legal ratio, the report continued:

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Gold, being transportable more easily and at less expense than silver, is on that account more variable in the march of commerce and dependent upon causes which render the yellow metal scarce or plenty; wherefore silver appears to be rightfully entitled to be considered in France as the *invariable term of comparison.*

The commission recommended that gold coins should be made legal tender at rates to be fixed from time to time according to the course of trade, but they postponed the consideration of details for carrying this plan into effect. This idea of a silver standard, with gold as a subordinate metal, and with postponement of details, reappears again and again, and is finally enacted, postponement and all, in the law of 1803.

But parallel with this investigation and report on metallic money there was going on in the same body an investigation into the virtues of paper money. The first issue of *assignats* (400 millions) was made in April, 1790. The second (800 millions), which was to be positively the last, was made in September of the same year. Thenceforward the stream ran with increasing velocity until February, 1796, when 36,000 millions were in circulation. At this time one franc in coin was worth 288 francs in paper, although there was a law in force making it a crime punishable by six years' imprisonment in irons to allow any difference in trade between coin and *assignats.* Then came the *mandats*, which ran their brief career, at the end of which both *assignats* and *mandats* were repudiated. This event took place in July, 1796.

Meanwhile there had been enacted certain laws relating to the establishment of the metric system, of which it was intended that the monetary system should be an integral part. Thus by the decree of the National Convention, dated August 1, 1793, it was declared that the monetary unit should be a piece of silver weighing the hundredth part of the *grave*, the name then given to the kilogram. Next came the law of the 18th Germinal, year III (1795), which says that "the unit of money shall take the name of *franc.*" Then followed that of the 28th Thermidor, same year, which enacts that the monetary unit shall henceforth bear the name of franc; that the fineness of silver money shall

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be nine parts of that metal and one part of alloy; and that the pieces of one franc shall be of the size of five grams — not ten grams, as the act of 1793 had contemplated. This law authorized the coining of gold pieces, nine-tenths fine, weighing ten grams, but did not fix their monetary value.

All these laws and the final act of 1803, Chevalier tells us, were founded upon the memoir of Mirabeau, which bears date December 12, 1790. The part which concerns us is found in the preamble of the decree proposed by Mirabeau, in these words:

> That, money being the measure of everything that is sold, this measure ought not only to be invariable, but also to have the same relations in all its parts, which cannot be if gold and silver are employed conjointly as constitutional measures, because the proportion between these metals is very susceptible of variation, and therefore one metal only ought to serve as the measure, or as constitutional money.
>
> That, one metal only not being susceptible of division sufficiently to serve as the measure of things of the lowest price, or convenient to be the measure of those of great value, it is necessary to adopt other monetary signs, which shall only be additional signs and representative of constitutional money.

Mirabeau's plan was to coin gold pieces of 10, 20 and 50 livres at the existing ratio. As they were not to be legal tender, they would pass for what they were worth from time to time, being merely commercial money, like the gold coins of Austria, Russia and India at the present day.

The next document of importance is the report of Prieur, of Côte d'Or, to the Council of the Five Hundred, in the name of the committee on finance of that body, dated 17th Ventose, year VI (1798). This was under the Directory. Although rather bombastic in its exordium, this report is not in the least obscure. Prieur considers the monetary value of silver as already fixed, and assumes that the only question open to debate is, how the commercial variations of gold in reference to silver shall be treated.

> The franc [he says], representing a specified weight of pure silver, has been considered as the unit of value, to which all other values

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should have relation; that of a given weight of gold, and consequently of our piece weighing ten grams, remains undetermined.

Two methods were open to consideration: (1) to preserve the same nominal value, changing the weight or fineness from time time as necessary; or (2) to preserve the weight and fineness and leave the coins to pass for what they were worth. The former was that practised under the monarchy, but it led to innumerable frauds in the recoinages. The second was much to be preferred upon grounds of justice. "Our actual legislation conforms to it. The wish of the Directory is to see it confirmed; so likewise is that of the Minister of Finance and of the merchants called together for consultation on the subject."

Some difficulties presented themselves to the minds of the committee in reference to the collection of taxes. It was necessary to avoid disputes between the collectors and the taxpayers and also between the state and its creditors. Such disputes would naturally arise if the public dues were liable to variation according to the market relation of gold to silver. Private parties would have no difficulty in making their bargains and adjusting their contracts, but with regard to the state the case was different, the taxes being assessed at a fixed sum in advance of collection, and the disbursements being arranged on the basis of the taxes. For the purpose of regulating the payments of gold into and out of the public treasury, the report recommended that the treasurer should publish on the first Vendémiaire and the first Germinal in each year the value of the ten-gram gold piece, based upon the average commercial price of gold in Paris during the preceding six months, this value to govern public transactions during the next six months. Private transactions were to be left to regulate themselves. Prieur mentions casually that the ten-gram gold piece varied in price from the month Pluviose, year V, to the same month, year VI, as much as 1 franc 5 centimes. While ascribing a large part of this variation to extraordinary circumstances, he pointed to it as convincing proof that such changes in the value of the metals could not be safely disregarded.

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Article 5, section 1, of the decree proposed by the committee was in these words:

> The legal value of the gold pieces shall not be fixed; it shall vary as the price of gold bullion in the market. Consequently citizens may pass gold pieces at the rate stipulated between themselves according to agreement.
>
> But in order to prevent abuses and embarrassments *in the public service*, the legal currency of the gold pieces for each half-year shall be equal to the mean commercial price at Paris during the preceding six months.

Article 6 contained the provisions for carrying the latter clause into effect. In the course of the debate which followed in the Council of the Five Hundred the committee withdrew these two articles and stated that they would present a special measure for regulating the value of gold coins. The bill that they presented was passed on the 4th Floreal, articles 5 and 6 being omitted. It provided for the coining of silver pieces of the denomination of half-franc, one franc, two francs and five francs, and of gold pieces weighing ten grams and having this weight stamped on them. The bill was then sent to the Council of the Ancients.

The report of Crétet, chairman of the committee to which the subject was referred in the latter body, bears date the 12th Messidor, same year. Crétet was afterwards governor of the Bank of France and Minister of the Interior. He begins by saying that the monetary system is already grounded upon the franc, and that this is a piece of silver weighing five grams, nine-tenths fine. This piece, he continues, with its fractions and multiples, will always be worth as money exactly one franc, whatever may be the intrinsic value of the metal of which it is composed, even though circumstances may in the future raise or depress it. This is the fixed point of the system. Concerning the gold piece, he observes that the bill does not declare what shall be its legal and monetary value. If this were an oversight he would content himself with merely drawing attention to it;

> but we know, by the report of our colleague Prieur and by the discussion that has taken place in the Council of the Five Hundred, that this

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silence on the subject of the gold piece is a sort of indirect adjournment of the determination of the legal value of gold money.

Crétet considers that such adjournment would involve very troublesome consequences. If gold is deprived of legal value, how can any one be required to receive it? Will there not be disputes as to its value at each transaction? Shall we doom our citizens to minute calculations in their daily trading such as are customary among the Jews and the Chinese? Let us not lose sight of the fact that our most important traffic, that of agricultural products, is carried on with gold exclusively, and that "if gold serves the vile passion of hoarders, it also supplies the most active and useful circulation, since it is employed in the grain and cattle trade." If the adjournment of the definite solution touched only the new gold pieces, the delay might be endured, but it goes much beyond that, since it leaves undetermined the legal rating of the louis d'or, so that within three months after the promulgation of the law all the gold in the country will be demonetized. Then a louis will be a mere article of merchandise, and nobody can pay his debt with it except after a dispute and perhaps a lawsuit. The legal value of gold pieces, both old and new, ought to be fixed; but since the actual value is variable, the legislative body ought to declare it from time to time.

> For example [says Crétet], we might at first declare the ratio of gold to silver as 1 to 16, which would give a legal value of thirty-two francs to the new gold piece and almost twenty-four francs to the louis d'or. The Directory would be charged each year to give its advice to the Corps Législatif upon the expediency of changing the legal value of the gold pieces, old and new, from which would follow a law declaring the change. Thus would be preserved all the influence that gold money can exercise by its free circulation. The Corps Législatif would reach its conclusion by an average deduced from the relation of gold to silver among the principal nations of Europe.

The Council of the Ancients had no power to amend bills sent to them by the Council of the Five Hundred; they could only adopt or reject. On the recommendation of the committee, this bill was rejected.

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II.

Next in order is the first report of Gaudin, Minister of Finance under the Consulate. It is dated September, 1801. Gaudin gives a catalogue of all the money in circulation, gold, silver, copper, bell metal and base silver. We will omit these and other matters of detail. Gaudin remarks casually that silver is actually the base of the French monetary system and that the value of this metal will govern that of gold in the plan that he has to propose. Under the heading: "Whether we should maintain the decree of the 28th Thermidor, year III, which gives to the gold piece fixity of weight and mobility of value," he says:

> The National Convention, by its decree of the 28th Thermidor, year III, ordained the fabrication of the gold piece and fixed its weight at ten grams, nine-tenths fine and one-tenth alloy. It follows from this law that the money value ought to be from thirty-one to thirty-two francs. It was thought that to prevent the necessity of a recoinage of gold it was best that the gold pieces should have fixity of weight and mobility of value. But this is only fair to the eye; in practice it bristles with difficulties that force me to propose its rejection.

The cost of recoinage would be a trifle, he thought, in comparison with the bother of resorting to the pencil every time payments were made with gold. Moreover, he did not think that the necessity of recoinage would come oftener than once in fifty years. The expense, when it did come, would not be more than one-half of one per cent, and this, when distributed among the fifty years, would be only the hundredth of one per cent per annum. What is this in comparison with the task of computing fractions in making payments with gold, varying from day to day? He repeats:

> The basis of our money is the franc of silver. Its weight is fixed at five grams, nine-tenths fine. Everything should be relative to one franc. Pieces of higher value should be composed of several francs without any fraction.

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He reiterates in several places the idea that the silver franc is the unchangeable thing in French money, and in his project of law he fixes it thus:

Article 1. Silver shall be the basis of money of the French Republic; its fineness shall be nine-tenths fine and one-tenth alloy.

* * * * * * *

Article 6. The ratio of gold to silver shall be 1 to 15½. A kilogram of gold shall be valued at 15½ kilograms of silver. If imperative circumstances require a change in this proportion, the gold pieces only shall be recoined.

Gaudin's bill was referred to the section of finance in the Council of State, of which Béranger was the reporter. Béranger's first report, dated the 10th Thermidor, year X (1802), is brief. It betrays evidence of a difference of opinion among the members of the section as to the treatment of gold, but no difference as to that of silver. All were agreed that silver should be the principal money and that the monetary unit should always be equal to five grams of silver, nine-tenths fine, and that the value of gold pieces should be measured by that of silver money. How should this measuring be effected? The section could not agree to Gaudin's plan of recoinage whenever the course of events should bring about a sensible change in the market ratio. Of all the arrangements talked of, it considered this the most contrary to sound principles. Béranger was possessed of one idea which he propounded with great earnestness, namely, that certainty, fixedness, invariableness in the standard of value, was the prime consideration in commerce. This did not mean, as he showed in his second report, that the value, or exchange power, of the metal chosen for the standard should be always the same, so that five grams of silver should always command a given amount of commodities, but that the buyers and sellers should always know exactly what they were to pay or receive. It was to be five grams of silver and nothing else. It was not to be five grams of silver to-day, and something else to-morrow, and five grams of silver the day after. To show how the element of certainty promoted commerce and prosperity, he pointed to the banks of deposit as distinguished

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from banks of discount, the function of the former being to create an invariable money of account by receiving every sort of current money and boiling it down to one standard, so that people trading with bank money could always know exactly what they would get.

> Thus, the banks of deposit do not multiply commercial bills like banks of circulation; they do not make advances to merchants; they have no other sensible advantage than that of fixing the value of money; but this advantage is such that all the places which have possessed them have become the centres of a great commerce. Banks of deposit, and the benefit that they bring, are limited to certain localities; the only means of supplying them in a great empire, and of adding their results to those of the banks of circulation, consists in creating a current money as invariable as the bank money. It is necessary then to choose either gold or silver in order to give *one type* to the money of account, and if the latter obtains the preference, to abandon the value of the gold pieces to all the variations of commerce.

This plan of leaving the value of the gold pieces to be regulated by commerce had been rejected by the section of finance, but it appears from Béranger's second report that he personally favored it. They had also rejected Gaudin's plan of occasional recoinage. As they had agreed upon the single silver standard, it followed necessarily that they favored the plan of changing the legal value of the gold pieces from time to time by legislative or administrative action. This idea was thrown out tentatively by Béranger in his report, but without any details for carrying it into execution. In short, the section of finance had got back to the ground occupied by Fortbonnais and the commission of 1790, and had stopped just where they stopped.

The Consuls were evidently puzzled by such a report, for they referred the subject back to the Council of State with certain specified questions, upon which Béranger made a second report, dated the 17th Fructidor, same year. The first and second questions were these:

> 1. Shall the monetary unit be represented by one metal alone, or by more than one; by a quantity of gold and of silver equally variable, or by a fixed quantity of silver and a variable quantity of gold?

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2. If the monetary unit be represented by one metal alone, to which should the preference be given?

To answer these questions Béranger goes deeply into the science of political economy. He lays down as principles that the utility of money consists in its power to facilitate and multiply exchanges, that the money best adapted to the promotion and multiplication of exchanges is that whose value is most invariable, that the value of money is independent of legislation, and that legislation should be limited to precautions whereby the value of money may be most surely and easily recognized by the public. He draws the distinction between value and utility, and also between legal value and economic value. The economic value of money, he says, depends upon circumstances in the natural world. It is liable to change. Both debtor and creditor are exposed to the consequences of its fluctuations, but they cannot be avoided. We must accept the fact and minimize its evils as much as possible. Two metals, he argues, will change in value oftener than one. Therefore one only should be chosen as the legal measure of value. If we choose two, it will be necessary to change the ratio from time to time, and

with the disposition that all governments have to debase money, the lowest value will always be taken as the measure; they will fall back alternately from gold to silver and from silver to gold, and sink from the franc to the seventy-sixth part of a franc, as they sank from the livre to the seventy-sixth part of a livre.

The money of account, the report continues, should be represented by one metal only, because foreigners will be attracted to French markets if they know exactly what they have to pay. France will thus gain an advantage over countries whose legislation is more arbitrary and more complicated. To the objection that this will be an innovation and that it is opposed to the legislation of *all European countries*, Béranger replies that that legislation dates from a time anterior to the discovery of the two Indies; that it is antiquated and out of harmony with existing facts. It should be remembered that under this old legislation in France the rating of the mark of gold or the mark of silver,

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between the years 1602 and 1773, had been changed twenty-six times by the government, not to mention the secret regulations by which the fineness had been altered. France had perhaps been more sorely tormented in this respect than any other country, but all had suffered more or less. Nobody but a few writers had thought of putting an end to such disorders by deciding which metal should serve as the point of comparison for the other. Nevertheless the force of things, which though silent never ceases to work, had now and then corrected legislation by usage. Thus banks of deposit had been established to preserve a fixed value for payments determined by an invariable weight of metal, the current money being received on deposit only by its weight. "The law," he says, "authorizes contracts in bank money and consequently authorizes the weighing of coins, although an earlier law enjoins us to receive them at their presumed weight." He cites examples to show how little the force of law avails to make money current. In Holland the zuyder, which is a gold coin, is legal tender, and the ducat, another gold coin, is commercial money. The ducats circulate in abundance, but the zuyders are hardly ever seen. In Sweden the gold ducat has a legal value that has fallen into desuetude, but it circulates at its commercial value. On the frontiers of all European countries the coins of the neighboring states are received by everybody and without difficulty, although legislation gives them no assistance.

Having settled the point that one metal only should be the standard, he takes up the second question and decides that the metal should be silver. The reasons for this decision are that the total value of silver is greater than the total value of gold, that it constitutes the greater part of French money, that it is less subject to accidental variations of value, that existing laws make silver the money of account and that the laws of Spain favor the importation of silver from that country rather than gold. Béranger favored the coining of gold pieces of ten grams and leaving them to find their own value in trade; but to avoid incidental difficulties, he suggested that they should be received at the public treasury at a fixed rate determined by the mean value of gold in the market.

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If the market value for the moment is below the rate at which they are received, they will accumulate in the treasury and become scarce in the circulation. Then they will rise in value and people will be glad to draw them out again. If the fall of gold proves to be real, the government will be apprised of it by the collections in the treasury, and will change the rate. If it rises, the government will be obliged to buy in the market whatever amount of gold it needs and will again change the rate.

The second report of Gaudin, dated the 26th Brumaire, year XI (1803), is supplementary to his first, and is for the most part a reply to the views of the Council of State as set forth by Béranger. That there ought to be gold pieces in the circulation Gaudin considered settled by the needs of the grain and cattle trade and by custom and public opinion. "Ought the gold pieces to have a value determined by law or should they be left to the regulation of commerce?" Gaudin thinks that the same reasons which require gold money at all require that it should have a determined value in trade. How otherwise could the countryman who had brought his cattle to the market know that he was getting the real price that he asked for them? How easy it would be to cheat him at every turn! It may be said that in any case he receives only the bullion value, since foreigners will take your money only at its market price. That was not a sufficient objection, Gaudin thought, since the aggregate amount of transactions with foreigners was small as compared with those of the internal trade. It was not reasonable to expose our own people to trouble in keeping their accounts, under the pretext that foreigners would not pay attention to the legal value of our money. As for Béranger's plan of fixing a rate at which the ten-gram pieces should be received at the public chest, he did not think that it would work at all. What is meant, he asks, by "the mean value of gold in the market"? Is it the mean value of a month, or of three months, or of some other interval? Is it the market of Paris, or of all France, or is it the average of these combined with foreign markets? But suppose this point settled, practical difficulties would arise in the execution of the law. Changes of market value, changes of

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the treasury rate, the difficulty of communicating with the receivers of taxes throughout the country and of settling their accounts afterwards, — all together made the plan, in his view, impossible of execution. In its stead he proposed that gold pieces of twenty and of forty francs should be coined, as being adapted to the wants of the people, to the ease of keeping accounts and to the ideas prevailing in the nation.

What should be the ratio between gold and silver? Gaudin gives various reasons for the ratio of $15\frac{1}{2}$. The first and controlling one is that there is no evidence of speculation in gold under that ratio. Another is that recoinage would be very expensive to the owners of gold.[1] At all events, he says, the legal value of gold pieces should determine their weight, instead of the weight regulating the value.

But under one system or the other the monetary unit would be equally represented by a determined quantity of silver, this material having the preference because it constitutes much the greater part of the money of the Republic.

[1] In this second report Gaudin says: "This system [the proportion of 15 to 1] appeared seductive to me from various points of view, but without intending to decide opinion upon a point which has been the subject of so many controversies, I will observe that since 1785 there has been no occasion to remark that the proportion of $15\frac{1}{2}$ has brought about speculations to bring gold to us and to carry away our *écus*, and that the price of gold in commerce has always been relative to the price of gold at the mints; but it has seemed to me that it might be useful to consider this same question from a point of view having particular reference to the circumstances in which we are placed.

"It may be possible that the proportion of one-fifteenth would adapt itself with a more rigorous exactness both to the proportion which obtains in that one of the neighboring states to which we have the greatest interest in adapting ourselves [England], and to our new system of weights and measures; but it is not demonstrated to me, as I have already remarked, that in maintaining our present proportion, that of $15\frac{1}{2}$, we should be exposed to sensible inconvenience; while, according to calculations of the administration of the mint, the adoption of the proportion of one-fifteenth would make an enormous difference in the position of the owners of gold, which would now have to be recoined. In fact this difference would be somewhere from 1,800,000 francs to more than 24,000,000. Now such a difference would appear to require that the inconvenience of not changing our actual proportion should be proved by indubitable evidence before it is determined to relieve it by so great a sacrifice. A profound discussion can alone conduct to the solution of a question of so high importance.

"Provisionally I think that I ought to persist in the propositions that I made in my first report, both for the proportion of $15\frac{1}{2}$ and for the coinage of twenty and forty franc pieces," *etc.*

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In his former report Gaudin had recommended that the gold pieces should be recoined whenever circumstances should require a change in the ratio. He does not refer to this matter in his second report, but as this was only a supplement to the other, being an answer to that of Béranger, it was not necessary to repeat what he had already argued at great length.

The last document of the series is the *exposé des motifs* which accompanied the bill in the legislature. This paper was drawn up by Béranger. The text of the bill shows that the section of finance had at the last moment adopted Gaudin's view on the disputed point, *i.e.* gold pieces of twenty and of forty francs, to be recoined whenever necessary. But nothing was said in the bill itself about future recoinage. That was left to future legislatures, which would have all the powers that this one had. If there could be any remaining doubt as to the intention of the framers of the law of 1803, the *exposé des motifs* would resolve it, the second paragraph of which says:

> This bill is in some sort preceded by a general provision (*disposition générale*), which tends to prevent the depreciation of the standard and to lead back toward *a fixed point* all the variations of value that may occur between the metals used in the making of money. From this results a guaranty for the execution of commercial transactions and the security of property, *that we do not find in the legislation of any other people.*

We have already seen what this *disposition générale* was. It is here spoken of as something which precedes the bill and also as something which tends to lead back to a fixed point all variations between the metals. That fixed point was five grams of silver, nine-tenths fine, which had under a former law (that of 1795) received the name of *franc*. What was it that they did not find in the legislation of any other people? It was the single standard. There were double standards in plenty. The report of Fortbonnais mentions thirteen such in Europe, giving the ratio of each. France herself had had the double standard in law and in theory, until 1795. She had abandoned it provisionally then. She now abandoned it definitely and adopted the single silver standard, using gold as an auxiliary and subordinate metal.

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The wording of the law underwent several changes in the Council of State, but the idea of the single standard was never departed from. One wording provisionally adopted on the 16th Nivose, year X, said: "The franc, that is to say, the monetary unit made of five grams of silver, nine-tenths fine, is the invariable measure of gold money and of copper." Another (10th Frimaire, year XI) said: "The franc is the invariable measure of money made of any different metal."

According to Chevalier,[1] the assertion was made in the French monetary commission of 1857, which was appointed to consider the questions raised by the influx of gold from California and Australia, that the law of 1803 was the result of a compromise between two contradictory opinions, one favoring the single standard and the other the double standard. The truth of this statement Chevalier flatly denies, and he challenges anybody to find a line in the official papers from 1790 to 1803 in favor of the double standard, or any evidence of the existence of two contradictory opinions on this point. Having gone over these papers independently, I am able to confirm what Chevalier says, although of course my assertion adds nothing to the weight of his. The only contradictory opinions revealed are those relating to the method of using gold in an auxiliary and subordinate capacity. Twelve years of ardent pursuit failed to secure a solution to this problem. Let us here recapitulate the several recommendations:

1. Fortbonnais' report, 1790: Single silver standard; gold to be legal tender at rates to be periodically fixed according to its market value.

2. Memoir of Mirabeau, 1790: Single silver standard, with gold pieces as commercial money.

3. Prieur's report (Council of the Five Hundred), 1798: Single silver standard; gold as commercial money, the rate at which it should be receivable for taxes to be fixed each half year.

4. Crétet's report (Council of the Ancients), 1798: Single silver standard; gold pieces to have their legal value fixed each year by legislative decree based on market value.

[1] La Monnaie, p. 202.

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5. First report of Gaudin, Minister of Finance under the Consulate, 1801: Single silver standard; gold pieces of twenty and of forty francs at the ratio of $15\frac{1}{2}$, to be recoined whenever the market ratio should sensibly vary.

6. First report of Béranger (Council of State), 1802: Single silver standard; gold pieces whose legal value should be changed from time to time by legislative or administrative action — Béranger personally preferring that they should be commercial money only.

7. Second report of Béranger, 1802: Single silver standard; gold pieces as commercial money, but to be received at the public treasury at fixed rates to be determined from time to time.

8. Second report of Gaudin, 1803: Additional to but not different from his first report.

9. *Exposé des motifs* in the Corps Legislatif, 1803: Single silver standard; gold pieces of twenty and of forty francs at the ratio of $15\frac{1}{2}$, as recommended by Gaudin; no definite provision for changes in market value.

It is not necessary to say anything more about the intention of the legislators. The question will be asked how and when gold came to be legal tender money in France. The law of 1803 does not expressly declare what shall be legal tender, nor does it expressly authorize the unlimited coinage of either metal. But all money debts in France are payable in francs, and the law does expressly declare that the franc is five grams of silver, nine-tenths fine. Mr. Horton's attention was directed to this point in 1878, and he then expressed the opinion that no dispute had ever arisen in France by which the right of unlimited coinage (which includes the legal tender question) was ever tested. The only time after the passage of the law of 1803 when a dispute could have arisen touching the legal tender faculty of gold would have been the brief period (about 15 years) when the influx of gold from California and Australia had depressed the market ratio somewhat below $15\frac{1}{2}$. At no other time would it have been worth while for any French creditor to insist upon payment in silver. It is useless to speculate what the French

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courts would have decided if such a case had been brought before them. But if the intention of the legislators had been sought in the history of the law, anybody who had demanded silver would have been able to enforce his demand.

It may be asked why the French legislature did not follow out the intention of recoining the gold pieces when the market ratio changed in a sensible degree, as it did within a few years. Chevalier answers this question. He says that governments always have more work on hand than they can perform, and that consequently they only attend to the things of pressing importance. The thing of pressing importance in France during the next dozen years was war. No wonder that the coinage question was forgotten in that tremendous clash of arms, although the market ratio had materially changed.

It may be said that the practical effect and the actual course of events after the year 1803 were the same as they would have been if the double standard had been adopted in set terms. I fully agree to that and will show presently what the course of events was. But let us get our historical bases right first. I object to the assumption that the French people, after having the so-called double standard imposed upon them for centuries, and after having suffered untold evils from it, deliberately re-adopted it after they had gained freedom of action through the Revolution. In fact, they scouted it and rejected it with one accord. The single standard was agreed to by everybody:

> by the government, by the political bodies, of which the most influential was the Council of State, by the Commission on Money (an administrative body composed of *savants*), and by the Institute, whose advice the government of that period habitually sought in cases where its competence was acknowledged.[1]

III.

Let us now inquire whether the law of 1803, *or anything else*, enabled France to enjoy a concurrent circulation of the two metals. All the writers and statesmen whom we have examined, without a single exception, affirm that it is impossible to

[1] *Revue des Deux Mondes*, April 1, 1876.

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tie the two metals together by a legal ratio. They all drew their opinions from the experience of France. Béranger tells us that there had been twenty-six changes in the coinage between the years 1602 and 1773. Most of these changes were prompted by the cupidity or the necessities of the government, but it was the varying ratio of the metals in the market that furnished the excuse for them. So says Fortbonnais, and he makes this one of the reasons for abandoning the double standard; for then, says he,

> we shall see no more of these disastrous recoinages, where the pretence of obeying the behests of trade has given the pretext by which the business community have been ground under the heel of treasury extortion, by which specie has been debased or fictitious values substituted for an actual weight of fine bullion, of which the people have been robbed in order that they [the government] should be the gainers.

Calonne, in his defence of himself against the charge of fraud in the recoinage of 1785, says that the old ratio of $14\frac{5}{8}$, although it had stood the test of time remarkably well, had latterly drained the kingdom of its gold coin: "Everybody knows," he says, "that hardly any more gold was to be seen in France and that it had become infinitely rare in Paris." Adam Smith, who had travelled in France in 1764–66, confirms this statement, saying: "It is there difficult to get more gold than what is necessary to carry in your pocket."[1] The Fortbonnais report (1790) says that the ratio of $15\frac{1}{2}$ adopted by Calonne had had the contrary effect, and that it was then draining France of its silver.

The deluge of paper money, which lasted six years, concealed the movements of the precious metals until 1796, at which time the testimony is emphatic that there was no shifting tendency whatever. This fact is explained by a reference to Soetbeer's tables. The market ratio in 1796 at Hamburg was 15.65, and this was exactly the ratio fixed by Calonne, if allowance is made for the difference between the seignorage on gold and that on silver. This equilibrium continued with very slight variations till 1803, at which time Gaudin could detect no speculative movements in the precious metals. Soetbeer's quotation for

[1] Wealth of Nations, book i, chap. 11.

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that year was 15.41. After 1803 there was a slow advance in the market ratio, not uniform, not without some declines, but nevertheless an average advance, so that soon after 1803 gold began to be exported or hoarded. The ratio was not above 16 except in three years (1808, 1812 and 1813), yet gold disappeared from circulation in France for 45 years. Chevalier, writing in 1859, says:

> A change of one and a half per cent in favor of gold had sufficed, 30 to 40 years ago, to cause that metal to disappear wholly from commercial payments.[1]

And again:

> Under the régime of the law of the 7th Germinal, year XI, gold has ceased to figure in transactions of any magnitude since it acquired an appreciable premium. People took their gold to the money changer in order to pocket the premium, and made payments exclusively in silver, as everybody knows.[2]

In another work Chevalier says:

> In the year XI, when the law of the 7th Germinal was enacted, which established for a temporary standard the ratio of 1 to $15\frac{1}{2}$ between the two metals, this ratio actually existed in the commercial world; but little by little it changed, and soon gold came to be worth ordinarily a little more than $15\frac{1}{2}$ times as much as silver — it has sometimes been worth a little above 16 times as much. This discrepancy, which has usually been about $1\frac{1}{2}$ per cent (that is, one half of that which manifested itself from 1726 to 1785) would have had no effect if the prevision of Gaudin had been correct. On the contrary, it had a very considerable effect; it sufficed to retire gold from circulation. A few years after the passage of the law of the year XI gold became so scarce that people had to buy it of the money changers when they wanted to carry that kind of cash on their journeys. In fact, the circulation of the two metals side by side, which Gaudin flattered himself that he should establish by means of the coinage of pieces denominated 20 francs and 40 francs, *had ceased to exist shortly after the year XI, and twenty-five years after that date the circulation consisted of silver only.*[3]

Professor Bowen, referring to the same period, says:

[1] Baisse probable de l'or, p. 215. [2] *Ibid.* p. 220.
[3] La Monnaie, p. 216.

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In those times when one was paid even so small a sum as 1000 francs he received his bulky and heavy money in a canvas bag and had to hire a porter or a cab to convey it home.[1]

These facts cannot be answered by pointing to the continued coinage of gold in France during this period. The French have always been a hoarding people and were much more so then than they are now, because there were then fewer banks and fewer means of safe investment. It is no objection in the mind of the hoarder that the money he puts away bears a premium. On the other hand gold is more easily concealed than silver because it occupies only one twenty-fourth of the space of silver for an equal value. Dupuynode estimated the private hoards of France as late as the year 1853 at one thousand million francs.

About the year 1848 the increased production of gold in Russia began to lower the price of that metal relatively to silver, so that $15\frac{1}{2}$ to 1 again became the market ratio. Gold began to reappear in the circulation of France. Then came the discovery of gold in California and a few years later in Australia. The great outpouring of the yellow metal from the placer mines of these countries upset the French ratio on the other side of the scale. The market ratio, instead of being 15.50 to 1, became 15.21 to 1 — a change of little more than $1\frac{1}{2}$ per cent. Silver began to run out of France and gold to run in in a perfect torrent. It became necessary to coin gold pieces of ten and also of five francs. The government deemed it fitting to take some steps to prevent the exportation of silver. So a commission was appointed early in 1857 to investigate and report. This commission made the senseless recommendations that a heavy export duty should be put on silver, that dealers in the precious metals should be punished, and that assorting coins and selecting the heavier ones for any purpose whatever should be prohibited by law. These recommendations were not actually carried out, but the *Moniteur* dug up out of the dust heap of ages certain laws of similar import which it said had

[1] U. S. Monetary Commission of 1876, p. 146.

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never been repealed. Upon the strength of this discovery prosecutions were instituted against a number of money changers, but they were almost instantly dropped. It was found that the Bank of France was doing the very thing that the money changers were accused of. It was publicly offering a premium for silver bullion over the mint ratio, and had been doing so for more than two years. The law of 1711, cited by the *Moniteur*, punished this offence by confiscation of the money so dealt in and by a fine not less than the value of the money confiscated. If the penalty had been enforced the Bank would have been fined about two milliards of francs ($400,000,000), "if not more."[1]

Chevalier himself, although treating with deserved contempt the recommendations of the commission, considered the crisis a serious one and he wrote the book *Baisse probable de l'or* urging the necessity of some action. He desired that the single standard of silver enacted by the law of 1803 should be effectively maintained, and to accomplish this end he favored the plan of Crétet described above, *viz.* that the gold pieces should have a fixed weight, and that their value should be announced every six or twelve months by legislative decree. Another well-known French economist, Levasseur, while agreeing with Chevalier in his interpretation of the law of 1803, argued that the monetary revolution was an accomplished fact and that the wisest policy was to acquiesce in it. In other words, since gold had actually thrust silver aside in spite of the law, he was in favor of accepting gold as the standard. It is needless to say that events have justified Levasseur. The public were perfectly delighted to get rid of the bulky, clumsy, inconvenient coins that had oppressed and impeded them for half a century.

Statistics might be introduced here to a wearisome extent showing the flow of the two metals into and out of France in obedience to the changes of the market ratio. The details are to be found in the House of Commons report on the depreciation of silver in the year 1876 (pp. 86–91). A condensed state-

[1] Baisse probable de l'or, p. 269.

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ment of the coinage is given in Block's *Dictionnaire de la Politique* (volume ii, page 338), *viz.*:

	Gold.	Silver.
From 1795 to 1850	1,244,160,000 fr.	4,302,461,000 fr.
From 1850 to 1872	6,521,442,000 fr.	827,013,000 fr.

Before 1848 [says the writer, Aristide Durand] silver was the usual money; daily payments were made with five-franc pieces. Gold, proportionally rare, had at this epoch almost gone out of the French monetary circulation, in which it was estimated that not more than one hundred million francs remained.

When the tide turned in consequence of the discoveries of gold in California and Australia, France exported in ten years (1850 to 1860) 1300 million francs of silver and imported 3000 million francs of gold, the two streams flowing side by side in contrary directions.

The minor silver coins of France up to this time were still struck in accordance with the law of 1803, that is, of full weight and fineness. Accordingly they went to the melting-pot along with the five-franc pieces, and left the country bare of small change. The inconvenience became so great that in 1864 the government asked the Corps Législatif to authorize the lowering of the fineness of all the coins less than five francs to 835 thousandths instead of 900, thus converting them all into token coins. The legislature granted this authority only as to the pieces of 20 and of 50 centimes, and limited the issue of these to 30 million francs. This was far from meeting the difficulty. A like difficulty had been experienced in Belgium and Switzerland, and this led to correspondence between the three countries touching their minor coins. This correspondence resulted in the treaty of December 23, 1865, known as the Latin Monetary Union, by virtue of which these countries, together with Italy, adopted their present token coinage of silver and limited its legal tender faculty to fifty francs. M. Achille Fould, Minister of Finance, in recommending this treaty to the Emperor Napoleon III, said:

In France all large payments, which, as is well known, were formerly made in sacks of five-franc pieces, have been of late years effected in

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gold, and almost all the old five-franc pieces have been successively exported or melted down.

The last scene in this strange eventful history is known to all. The gold ratio tilted back to the other side of 15½ in the year 1867, but the change did not become serious until 1873. The Latin Monetary Union in 1874 restricted the annual coinage of silver five-franc pieces to 120 million francs for the four countries then composing it. In 1877 the coinage of silver five-franc pieces was stopped entirely, the governments having been authorized by the legislative authority in each to take this step. The motive impelling France and her associates to close their mints to silver was, of course, to save their gold. The existing stock of silver coin was not demonetized, but the metal silver was demonetized in France, Belgium, Switzerland, Italy, Greece and very recently in Roumania, and so it remains.

It appears from what has gone before that France did not adopt the double standard in the law of 1803, and that she never had the double standard in fact except at brief and transient periods when the market ratio, in its various rambles, happened to be about 15½. So far is it from being true that the French law of 1803 held the two metals together; in fact, *they never were held together by that or by anything else.* A line representing their variations from 1803 to 1873 looks like a worm fence that has suffered in a gale of wind. Professor Laughlin has pictured it for us.[1] There is no evidence to show that the French law of 1803 had the smallest tendency to hold the metals together. Prior to 1785 all the countries of Europe had the double standard in law at ratios which were below 16 to 1, and the United States joined in at 15 to 1 in 1792. Yet their joint action did not prevent the ratio from rising to 16 and even higher within a very short period. When people talk to me about the double standard I say there is no such thing. It is the Mrs. Harris of monetary science. An alternate standard is not a double standard. If all Europe and America conjoined could not hold the ratio below 16, what chance is there that *we*

[1] History of Bimetallism in the United States, p. 160.

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should be able, now and alone, to turn it back from 21 to 16? What likelihood is there that we could hold it at 21 even if we should adopt that figure?

I said in the beginning that this investigation was made for those who, while inclined to favor the free coinage of silver, would be opposed to it if they were convinced that it would expel gold from circulation. Free coinage of silver means with us the ratio of 16 to 1. The difference between this and the present market ratio is 24 per cent. As both gold and silver, each in its turn, went out of the French circulation when the difference became as much as $1\frac{1}{2}$ per cent, anybody can judge what the effect of free coinage of silver would be, if adopted by us now.

HORACE WHITE.

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FEDERAL GOVERNMENT AND INTERNATIONAL RESPONSIBILITY.

IT is a fact well known to the political scientist that the influences of diplomacy and international intercourse are unfavorable to the existence of confederate government. By confederate government I mean, in general, that system in which several sovereignties agree to construct a central government of limited and defined powers as their joint agent for the accomplishment of certain specific purposes. Under such a system each sovereignty reserves to itself almost all internal government and preserves a certain international standing. Upon their general agent the confederated states confer the greater share of international responsibility, but they fail to furnish it with sufficient internal powers to meet and discharge that responsibility. It is easy to see that foreign states will not long be satisfied to deal with such an agent. They will find it in their interest to treat directly with the separate sovereignties, and sooner or later they will refuse to recognize the central government as having any international standing. Such an attitude of the foreign powers will influence the confederacy in one of two ways: either it will help to dissolve the union, or it will tend to strengthen it. If the former result is attained, the confederated sovereignties will become wholly separate states, and the confederate government will disappear. If the latter result is reached, the several sovereignties will be consolidated into a single sovereignty, and a national government will appear, clothed with exclusive power and responsibility in international relations, and furnished with the means of exercising such power and discharging such responsibility.

The first question which I propose to discuss in this paper is whether federal government suffers the same hostile pressure from without as confederate government and whether its con-

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tinuance as a governmental form is exposed to the same menace. By federal government I mean that system in which a single sovereignty employs in the work of government both local and general organs, defining the sphere of action of each of these two classes of governmental organs, and securing each against encroachment from the other. In such a distribution of governmental functions, all international responsibility is commonly thrown upon the general government. At the same time, the internal jurisdiction through which alone international obligations can be discharged may be largely vested in the local organs of government, *i.e.* in the commonwealths. In such case, foreign states may find the federal form as unsatisfactory, from the international point of view, as the confederate form. What effect their dissatisfaction will have upon the federal union, will depend upon the course pursued by the general government of the union.

If the general government attempts to excuse itself from sole responsibility to foreign powers for the acts and omissions of the commonwealths; if, when international rights are violated or international duties disregarded, it pleads that the sovereignty has not vested it with internal jurisdiction, — then will the federal system go the way of the confederacy. In all matters in which the general government confesses itself helpless and proclaims itself irresponsible, the foreign powers will at last address their diplomacy to the commonwealths.

But such a course, on the part of the general government, does not accord with the true spirit of the federal system. In such a system it is the sovereignty back of both sets of governmental organs, it is the nation itself, that is bound by international duties. If the sovereignty has seen fit to make the general government responsible internationally for what the sovereignty allows the commonwealths to do or to omit, the general government must loyally support this burden. It must declare that the act or omission of each commonwealth is the act or omission of the nation, and that it, as general agent of the nation, assumes the entire responsibility. If the practice of the general government conforms unwaveringly to this principle,

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the federal system will escape the danger of dissolution through international forces.

On the other hand, if the general government assumes full responsibility to foreign nations without possessing the means to discharge this responsibility, the federal system of government will expose the nation to constant peril of war. The influence of continuous foreign war, however, always has been and always must be fatal to the federal system of government — and, indeed, to any system of limited government. In the federal system, war tends to centralize all the powers of government in the general organs. In every limited system, war tends to expand the powers of government over the whole domain of liberty. If the limited federal system is to be preserved from these perils, it must find within itself the means of meeting its international responsibilities without more than the ordinary necessity of recourse to war. Fortunately, this may be done without abandoning the principle of the system. The sovereignty has only to grant to the executive department of the central government power to institute criminal proceedings whenever such proceedings are required to meet an international obligation, and to vest the federal courts with jurisdiction over all such cases. It may, of course, be objected that this would be a centralizing measure. The answer is, that the only alternative to a moderate constitutional centralization of this nature is, finally, a violent and radical centralization through incessant foreign complications and frequent wars.

My second inquiry is whether the constitution of the United States furnishes the means of protecting our federal system against extraordinary liability to foreign complications and to the dangers of foreign war. Does the constitution vest in the central government power to control official action in matters involving responsibility to foreign states?

I think it does, amply. In the first place, the constitution confers upon Congress the power to define and punish offences against the law of nations.[1] It does not limit this power of Congress to those offences against the law of nations which

[1] Article 1, section 8, paragraph 10.

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may be committed on the high seas or in the territories of the United States, but makes the power general and unlimited as to place. Congress may therefore define and punish offences against the law of nations when committed in any commonwealth of the Union.

What is the meaning of the words "define" and "punish," and of the phrase "offences against the law of nations," as employed in this provision? The term "define" is certainly very elastic. Under the general power to "define," Congress may make anything it will an offence against the law of nations. The only limitation upon its power in this respect lies in the power of the federal judiciary to pronounce the Congressional definition unconstitutional. The word "punish" conveys only the power to provide for punishing. Congress is forbidden by another clause in the constitution to pass any bill of attainder, *i.e.* it is forbidden, as a general rule, to act as a court and to pronounce judgment and sentence in a given case. But under the power to provide for punishing, Congress may confer upon the United States courts jurisdiction over all cases which it may class under offences against the law of nations; and in all such cases it may authorize United States officials to set in motion the machinery of criminal prosecution. It may even construct a special course of procedure for such cases — within the general limitation imposed by the constitution upon all forms of judicial procedure. Further, Congress may determine the penalties to be attached to the commission of such offences, subject to the constitutional limitation that these penalties shall not be cruel or unusual.[1] Finally, the title "offences against the law of nations" may include, as we have seen, anything which Congress may class under it; such an act of Congress being subject to revision only by the United States courts when they are called upon to apply it to a specific case. How far these courts would allow the Congress to go in this respect may be inferred from the judgment of the Supreme Court in

[1] If the language of article 1, section 8, paragraph 10, leaves any doubt as to the possession of these powers by Congress, that doubt is certainly removed by article 1, section 8, paragraph 18, which authorizes Congress to make all laws necessary and proper for carrying into execution all the powers vested in it by the constitution.

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the case of the United States *vs.* Arjona. In this case the chief justice, rendering the opinion of the court, said:

> The law of nations requires every national government to use "due diligence" to prevent a wrong being done within its own dominion to another nation with which it is at peace, or to the people thereof.[1]

The chief justice also declared that the United States government was such a national government; and that the constitution had conferred upon Congress the power to define and punish offences against the law of nations for the purpose of furnishing that government with full means to meet and discharge all the international responsibilities to which the country might be made subject.

We have thus far considered the constitutional powers of the central government as regards one class of international duties only — those imposed by the general law of nations. But a large part of the intercourse of states is purely contractual; and a correspondingly large part of the international obligations which rest upon a modern state spring from specific agreement. The constitution of the United States has made ample provision for the assumption and discharge of such obligations by the general government. It has vested the exclusive treaty-making power in the President and the Senate of the United States.[2] It has not limited the scope of this power as regards the subject-matter of treaties. It has made treaties the law of the land.[3] A rule of law established by treaty can, therefore, be overridden only by the amending power of the constitution, by a judgment of the United States courts, by a subsequent treaty or by a subsequent act of Congress. As far as the commonwealths are concerned, a treaty is supreme law, legally inviolable at their hands. And, lastly, the constitution has authorized Congress to make all laws necessary and proper to carry into execution this and all other powers vested in any department or officer of the government;[4] and the Supreme Court has declared that any appropriate means, not forbidden by the constitution, may be selected by the Congress for this

[1] 120 U. S. 479, 484.
[2] Article 4, section 2, paragraph 2.
[3] Article 6, section 2.
[4] Article 1, section 8, paragraph 18.

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purpose.[1] At every point, accordingly, the treaty-making and treaty-executing powers are vested in the United States government and fully guarded against commonwealth interference. There is here but a single question concerning which there is any uncertainty, *viz.* as to the extent of the treaty-making power. It is unlimited by any express provision of the constitution. It is, however, certainly limited by the general principle of the constitution, *i.e.* by the constitutional distribution of the powers of government between the general government and the commonwealths. The treaty-making power cannot deal with any subject reserved by the constitution to the exclusive jurisdiction of the commonwealths.[2] All the subjects of criminal legislation are so reserved, except treason, counterfeiting the current coin and securities of the United States, and offences against the law of nations. Foreign states are held by the general rule of international law to know this principle of the constitution and to accept the consequence thereof, *viz.* that no treaty made with them by the United States government which trenches upon the powers reserved exclusively to the commonwealths is binding upon the United States.

It is clear, on the other hand, that the constitution has vested in the United States government the necessary powers to execute any proper treaty with a foreign state. If our treaty engagements require for their enforcement the aid of the criminal law, the power to define and punish offences against the law of nations enables the United States government to provide the necessary penal sanctions. Almost every other kind of complication with a foreign state may be settled by indemnity; and there is no doubt that the United States government has full command of such means, under its unlimited power to appropriate money.[3]

Moreover, should there be any question in regard to the power of Congress to legislate generally concerning crime, when the crime involves an offence against the law of nations, the constitution provides still other means whereby the United

[1] Juilliard *vs.* Greenman, 110 U. S. 421.

[2] Outside of the commonwealths, of course, this limitation falls away.

[3] Article 1, section 8, paragraph 1.

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States government may overcome any possible hindrances offered by the commonwealths to the discharge of its treaty obligations. It vests in the United States courts jurisdiction over all cases arising under a treaty.[1] This is certainly sufficient to meet every proper requirement which any foreign state can make upon the United States. All that any state, which punishes crime by means of courts, can constitutionally promise to a foreign state, regarding the protection of the subjects of the latter within its jurisdiction, is that its officials shall use due diligence to procure the apprehension and arraignment of offenders against the rights of such aliens. All states know this, and are bound to know it. International law, as has already been said, requires each state to know the constitution of the state with which it treats; and this rule frees each state at its option from any international obligation which its government seeks to saddle upon it through the exercise of a power not granted to its government by its constitution.

I cannot see why Congress is not authorized, by the constitutional provision last cited, to confer upon the United States district attorneys, marshals and grand juries, all the powers necessary to meet any demand for satisfaction which a foreign state can properly address to the United States government, when crimes are alleged to have been committed against subjects of the foreign state within the jurisdiction of the United States.

If, lastly, we take into account the rights accorded by our constitution to foreign states and foreign persons, to bring civil suits in the courts of the United States, it certainly appears that the constitution has equipped the United States government with all needful means to discharge any international obligation which may be imposed upon the United States by the general principles of international law or may be validly assumed by way of treaty. If the government does not exercise these powers, it is the government that is at fault, and not the constitution. If the government raises the cry of helplessness, it stultifies itself. If from sympathy with the doctrine of state rights, the people of the United States have permitted

[1] Article 3, section 2, paragraph 1.

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the general government to neglect the use of its constitutional powers and have allowed the commonwealths to exercise exclusive control over subjects involving international responsibility, then must the people and the government of the United States adopt, without question, whatever the particular commonwealth may do or omit to do as their own act or omission. They have no right to shield themselves behind a *non possumus*. They have not even the right to criticize officially the attitude of the commonwealth. They are bound to presume officially that what the commonwealth does or omits to do is what ought to be done or omitted. This may appear to be a hard requirement; but sound jurisprudence permits neither individuals nor states to profit by their own wrong or negligence.

It remains, as the third and last point of our inquiry, to consider how far Congress has made use of the powers conferred upon it by the constitution for the discharge of international obligations. An examination of the statutes reveals a rather scanty list of provisions.

Congress has undertaken to secure the observance of our international duties as a neutral power in case of war between other states. It has undertaken to prevent the territory of the United States from being used, in any case, as a basis of hostile action or hostile preparation against a friendly power. It has declared such violations of our neutral duties to be high misdemeanors; and in certain cases, when the courts are unable to effectively enforce these duties, it has empowered the President to use the military and naval power for that purpose.[1] Congress has undertaken to secure the diplomatic representatives of foreign states against all violence and annoyance, declaring certain invasions of their exterritorial rights to be crimes.[2] It has declared the counterfeiting of the notes, bonds and securities of foreign governments and the uttering of such counterfeits to be crimes.[3] Congress has also provided for the execution of our extradition treaties by the federal judicial officers and the secretary of state;[4] and has vested in the United

[1] Revised Statutes, sections 5281–5288.
[2] *Ibid.* sections 4062–4065.
[3] Statutes at Large, vol. 23, ch. 52.
[4] Revised Statutes, sections 5270–5272.

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States district courts jurisdiction over torts committed against aliens in violation of the law of nations or the provisions of a treaty.[1] And it has been held by eminent counsel that section 5519 of the Revised Statutes enacts the means for the protection of all rights guaranteed to aliens by treaties; but the Supreme Court of the United States holds that the section in question has not this effect, and that the Congress has not yet furnished any such means. The court indicates that the Congress has full power to do so.[2]

This is the substance of what Congress has done toward defining and punishing offences against the laws of nations, committed within a commonwealth, and toward the general execution of its agreements with foreign powers.

It is evident that the influences and requirements of international responsibility are not necessarily hostile to the federal system of government in general, nor in particular to the federal system created and regulated by the constitution of the United States. It is clear that all of the difficulties that have arisen in the United States proceed from the fact that Congress has not perfected the machinery of the general government for dealing with international questions. When Congress shall have done its duty in this regard, — when it shall have occupied the ground assigned by the constitution to the general government, — then the United States will be fully able to meet and discharge all its international duties. We shall then be compelled neither to humiliate ourselves by answering the just demands of other states with a stultifying *non possumus;* nor to expose ourselves to the danger of confederatizing the Union by directing the diplomacy of foreign powers to the commonwealths; nor to incur the risk of over-centralization as the result of needless wars, — wars forced upon the nation by the acts or omissions of one or another of our forty-four distinct governments in matters of international concern.

JOHN W. BURGESS.

[1] Revised Statutes, section 563, paragraph 16. [2] Baldwin *vs.* Franks, 120 U. S. 678, 683.

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REVIEWS.

L'État Moderne et ses Fonctions. Par PAUL LEROY BEAULIEU. Paris, Guillaumin et Cie., 1890. — 8vo, 463 pp.

M. Paul Leroy-Beaulieu does himself great injustice in this book. It is a cry of agony — almost of despair. The liberal politician trembles before the democratic state form which a few years ago he was energetically establishing; and the learned economist who has studied the wonderful evolution of economic institutions is at his wit's end, because that evolution is going beyond the goal aimed at by his masters of forty years ago. In some parts we seem even to hear the shrill voice of the old man scolding his contemporaries. He complains that they are afflicted with that peculiar disease called "aphasia," "qui consiste à prendre pour exprimer une idée un mot qui n'a avec elle aucun rapport: quand ils prononcent liberté, il faut entendre servitude; quand ils articulent progrès, il faut comprendre recul." They are like those frivolous and presumptuous sons who, having inherited a fortune acquired by patient labor, despise the modest virtues which built it up, and in order to increase it more rapidly, hasten into all sorts of reckless adventures. Sons rule the fathers, and the young voters between twenty-one and twenty-five constitute one-eighth of the whole body of electors.

In the second chapter of Book II the author gives a list of the sins of democracy more exhaustive even than that of Sir Henry Sumner Maine in *Popular Government.* The modern democratic state is the constant victim of the changing caprices of the majority. Elections are like an instantaneous photograph, which seizes a horse on the gallop and represents him as eternally galloping. Legislation is of necessity almost always "*outrée*" in the sense of action or of reaction. Parliamentary activity is abnormal, and obstruction and the "*referendum*" are to be welcomed as conservative forces. There is no continuity either in policy or in *personnel;* to the victors belong the spoils; impartiality is replaced by partisanship; precariousness of tenure leads to pillage of the public resources; permanent interests are sacrificed to those that are immediate and selfish; and this survey leads finally to the astonishing sentiment that monarchs and the aristocracy have made states, and that the people, if left to themselves, destroy them. The future will probably restore the "grandes monarchies administratives."

Now M. Paul Leroy-Beaulieu in his previous books on finance, colonization, the labor question, *etc.*, has done much better work than

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this; and even in the present volume the chapters on railways, poor-relief and education show traces of the same careful study and discriminating analysis. It is true that the modern development of democracy and wealth has given us political and economic problems of no ordinary difficulty, although it may perhaps be doubted if they are any worse than those the feudal aristocracy and the absolute monarchy left behind them. It is at any rate the duty of the politician and economist to face them, not merely to denounce them. The author complains that the socialists have set up an extravagant *a priori* notion of an all-powerful state, and this they blindly worship. But is not he guilty of the same mistake in limiting the functions of the state by his own *a priori* notions of the inviolability of individual action? It is true that he rejects Jules Simon's dictum that "l'état doit travailler à se rendre inutile et préparer sa démission," and admits that the functions of the state vary from age to age, and that what was sufficient for savages would not at all suffice for civilized nations; yet when it comes to positive definition it is practically the old English notion of "defence of life and property" (*i.e.* Lassalle's night-watchman) with a few concessions in favor of sanitary laws. But the question of governmental activity is not so much one of establishing an ideal state with its proper attributes, as of the practical division of labor between individuals and the collective organ, suitable to the present needs of society. That is simply a question of expediency, and every question of expediency is open to argument. It seems to me, therefore, that this book, while full of acute and trenchant criticism, instead of aiding the solution of our present political and economic problems, will hinder it; for the work appeals to the worst of all prejudices — the prejudices of a privileged class excited by the fear of losing its privileges. And while I agree with much that the author says about the extravagant expectations of the socialists, I conceive that M. Leroy-Beaulieu has chosen the wrong method of combating the danger.

RICHMOND MAYO-SMITH.

Zum Sozialen Frieden. Eine Darstellung der Sozialpolitischen Erziehung des Englischen Volkes im Neunzehnten Jahrhundert. Von Dr. GERHART VON SCHULZE-GAEVERNITZ. Leipzig, Duncker und Humblot, 1890. — 2 volumes; 8vo, xvi, 467, vi, 510 pp.

The social history of England in the nineteenth century has never yet been completely written. Pretty much all the attempts have hitherto been made by Germans. Just ten years ago appeared the posthumous work of Professor Held, *Zwei Bücher zur Sozialen Geschichte Englands*, in which the gifted author gave us what purported to be only an introduction to a comprehensive work. It still remains by all means the

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best account of English social and political literature from 1776 to the Reform Bill, and of the decay of the mediæval economic forms side by side with the rise of the factory system. Already before Held's death, his colleague, Professor Brentano, had made a thorough study of the trades-union movement. Since then Held's work has in great measure fallen to Brentano. He has published valuable monographs on the literary side of some of the social movements since the Reform Bill — especially Chartism and Christian socialism. Brentano is to-day the great German advocate of the English methods of dealing with the social problem, as over against the catheder-socialistic or patriarchal methods advocated so prominently by Schmoller. Brentano's influence and ideas are responsible for the volume before us as well as for the reports on strikes and the labor contract, reviewed below.

In his *Zum Sozialen Frieden* Dr. Schulze-Gaevernitz has attempted to give an account of all the movements, both literary and practical, which during the past half-century have been making for social peace. The most potent influence in this direction Dr. Schulze ascribes to Thomas Carlyle. Carlyle is made the very centre of the literary influences which changed the current of English scientific and public thought on social questions. Accordingly over one-half of the first volume is devoted to an analysis of Carlyle's social philosophy. In fact the whole work might have been termed: "An essay on Carlyle with additional remarks on subsequent social movements." These additional chapters treat respectively of Christian socialism and the co-operative movement; the university movement beginning with Puseyism, down to Toynbee and the settlements in London; English positivism; and finally the present socialistic movement and its connection with the trades-unions. On the other hand more than half of the second volume is devoted to legislation and actual institutions, with chapters on the factory and conspiracy laws, profit-sharing, and above all on arbitration and conciliation as practised especially in the textile, coal and iron industries.

The conclusions of Dr. Schulze are the results of protracted studies in England. The various chapters, of which exhaustive bibliographies form by no means the least important part, have an additional value in that they have been carefully revised by the chief leaders in the movements described. Dr. Schulze is an enthusiastic writer, filled with the most cheerful optimism, and endowed with a mind always open to noble impulses and imbued with the highest aspirations. His glowing style and the ardor of his convictions must inevitably influence the reader, even though the author is stronger in exposition than in criticism, and though his conclusions sometimes seem a little too rose-colored.

The best chapters in the work are those on Carlyle. Here we have for the first time in any language a comprehensive and accurate account

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of Carlyle's whole social and political philosophy. Of course no one who has read *Past and Present* or *Chartism* need be told that the key-note to Carlyle's whole thought was the social problem, or as he puts it, the "condition of England question." But it is as interesting as it is valuable to see how Dr. Schulze builds up from all the other writings of Carlyle a coherent and imposing social philosophy. If we accept with Held what is undoubtedly the truth, that Bentham was the real father of the political radicalism and the economic orthodoxy which dominated English thought during the first half of the century, Dr. Schulze would have us confess that it is Bentham's most bitter enemy, Carlyle, who is dominating English ideas to-day. In this however there seems to be exaggeration. It is of course beyond cavil that Carlyle's influence in changing the current of English thought, although by no means immediate, has been strong and abiding. But it would be difficult to affirm with justice that the political and social aspirations of the present conform to the undoubtedly conservative ideals of Carlyle. Dr. Schulze, it seems to me, glosses over Carlyle's pessimism and what may be called his mediævalism. In his indignation with the present Carlyle throws a halo over the past; and not Schulze, but Toynbee is correct, who believes that the patriarchal notions of Carlyle are not the lodestar of the recent social movement. With his ardent and enthusiastic temperament, Dr. Schulze overlooks the defects of his hero.

To English readers the other chapters do not bring much that is new, unless it be the valuable account of the philosophy of positivism, and the influence of its advocates in connection with the change of public attitude toward the trades-union movement. The author's description of co-operation is a little too optimistic; and his sympathetic account of Ruskin takes that writer somewhat too seriously as an economist. The socialism of to-day Dr. Schulze regards as evanescent, incapable of any firm hold on the English laborers, and destined to disappear with the slow but gradual development of harmony between capital and labor — a feeling which must necessarily be engendered and strengthened by all the modern institutions which make for industrial peace, and which he so fully explains.

Taking it all in all, this work puts Dr. Schulze at once into the front rank of historians of social economics. Although it has important omissions, — for instance, some account of Chartism and of early English socialism, — and although it is pervaded by an undue optimism, it is in many respects an admirable contribution to the social history of England during the past fifty years. Its influence can only be good, and it is certainly one of the few recent works that deserve an immediate translation into English.

E. R. A. S.

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The Conflicts of Capital and Labour; being a History and Review of the Trade-Unions of Great Britain, *etc.* By GEORGE HOWELL, M.P. New York, Macmillan & Co., 1890. — xxxvi, 536 pp.

Since the first edition of this well-known work was published in 1878, the attitude of the general public towards the trade-unions has undergone a marked change. Their right to exist was conceded grudgingly, if at all, and they were looked upon with suspicion and prejudice. Too many people derived their knowledge of them only from newspaper accounts of strikes, or perhaps from Charles Reade's thrilling tale, *Put Yourself in His Place*. In other words, they knew of the trade-union only in time of labor troubles; of its functions in time of peace and of its social and educational value they knew little or nothing. In 1878, in addressing a suspicious and partially hostile public, Mr. Howell had to appear as an apologist; to-day he finds the tone of apology unnecessary. Portions of the work have consequently been rewritten, other parts have received such additions as were needed to bring them up to date, and the whole has been carefully revised.

Mr. Howell is at his best in the descriptive portions of his work. His exposition of the rise of trade-unions, their field of operation and their utility, is excellent. A lifelong experience among them as member, official and champion, coupled with sound judgment and loyalty to the principle of self-help, has given him eminent fitness for this undertaking. On the other hand, as a critic of political economy Mr. Howell is weak, and one is forced to doubt if he has any clear idea of the science, or understands what is meant by the term "law" in an economic discussion. On page 198 he says: "The limitation of supply is one of the fundamental principles of the science of political economy." One might as well say that applying brakes on a down grade is one of the fundamental principles of physics. On the next page the statement is not quite so confused, but still very objectionable, when he says of laborers trying to restrict the supply of labor: "They are denounced as though they had committed a crime, whereas they are only adapting themselves to the laws and teachings of political economy." He seems to use "crime" and "laws" here as correlatives; but it is obvious that acts may be crimes which are in accordance with the "laws of political economy," just as other acts are crimes which follow the laws of physics with precision. As long as men discuss economics with the idea that economic laws impose duties, or that living up to them is in itself meritorious, confusion will prevail. On page 352 he asks: "How was it that the law of supply and demand was ineffectual in raising the wages of the agricultural laborers for so many years? It is well known that their rates of wages were stationary till the union stepped in to assist them." No wonder that Mr. Howell thinks little of the law of supply and demand!

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Again, page 271, an old law of Henry VI, prohibiting laborers from asking more pay for working on a holiday, "was a direct violation of the natural laws of political economy." In several passages "political economy" and "political economists" serve as a kind of scapegoat for any casual crude theorizing on economic matters. Mr. Howell condemns the teachings of the neo-Malthusians, and it is one more thrust at "political economy." Mr. Howell is not exceptional in this, and perhaps the rash assertions of imprudent economists are partly to blame for this confused attitude toward the science. But a careful writer will no more hold political economy responsible for all the vagaries of those who prophesy in its name than he will lay to the charge of astronomy certain speculations about "Our Inheritance in the Great Pyramid" or the late attempts to prove that the earth is flat.

Mr. Howell's later chapters contain fresh and valuable information on boards of conciliation, boards of arbitration, profit-sharing and co-operation. He says of co-operative production that "the utmost it has as yet accomplished (in the direction of solving the labor question) is, that it has contributed a certain amount of experience, which deserves to be stored up for future use." He also notes as pregnant facts "that many of the co-operative stores have been very chary in investing their funds in the production of the articles which they offer for sale; and trade-unions, as a rule, have refused to invest any portion of their funds in productive industry" (page 460). Further illustrations of this timidity are given which seem to indicate that the organizations are very distrustful of their ability to manage capital successfully in industrial enterprises. While this distrust prevails so strongly, one may conclude that the workmen in the English trade-unions are far from ready for state socialism.

From among the many interesting tables a few facts in reference to the eight-hour question may be cited. In 1889 twelve hundred circulars were sent out to the various trade societies in the United Kingdom. Only thirty-seven societies responded, with a total membership of 178,376; 39,656 voted for, and 67,390 against an eight-hour day; 28,511 voted for its being obtained through Parliamentary action, and 12,283 against that method. The great bulk of the votes against the eight-hour day came from three or four societies. The Northern Counties Amalgamated Weavers went solidly against it, with 33,756 votes, as did also the Amalgamated Cotton Spinners, with 17,125 votes, the same society of Oldham with 5660 votes, and the Wolverhampton Trades' Council with 4500 votes.

A book so full of varied material should have been furnished with an index. It is to be hoped that Mr. Howell's work may be widely read by the working people of the country. It is a sound, wholesome and sympathetic treatment of very important interests.

EDWARD G. BOURNE.

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Arbeitseinstellungen und Fortbildung des Arbeitsvertrags. Berichte von E. AUERBACH, W. LOTZ und F. ZAHN, im Auftrage des Vereins für Socialpolitik, herausgegeben und eingeleitet von L. BRENTANO. Schriften des Vereins für Socialpolitik XLV. Leipzig, Duncker und Humblot, 1890. — 8vo, lxxviii, 477 pp.

The forty-fifth publication of the *Verein für Socialpolitik* is especially remarkable for the reason that it is devoted to the very subject with the discussion of which this society began its successful career. It is the question of strikes and the development of the labor contract that was discussed at the constituting meeting at Eisenach, in 1872, with Professor Schmoller as the referee. From that time to the present day the reports and discussions of the society have closely followed the policy and legislation of the German Empire, and though the publications have been of a strictly scientific character, yet they have had an important practical influence on the social policy of the imperial government. This relation of science and politics has been most useful to each. It certainly gave a new stimulus to the men of science and taught them to respect the facts of the day, of which the Germans are so apt to lose sight. It imposed upon them a conservative restraint, without which they might have followed Rodbertus into the realms of Utopia. On the other hand, it is gratifying to those men who in 1872 proclaimed the social mission of the state in the face of an overwhelming opposition, to see that, supported by public opinion, the rulers of the empire are finally compelled to adopt their views and put them into practice.

This volume, the result of investigations made by the economic seminary of the University of Leipzig, under the direction of Professor Brentano, is dedicated to the *Altmeister* Wilhelm Roscher. It opens with an introduction by Brentano, and contains a history of organizations of laborers and their employers, arbitration and conciliation, sliding scales and other regulations concerning wages. These subjects are treated in three different articles. In the first Mr. Emil Auerbach describes the movement in the mining industry of Northumberland. The work contains much undigested but valuable material, unfortunately translated into German. The subject of the second article is the iron and steel industry of the north of England, admirably presented by Dr. Walther Lotz. The last article, by Mr. Friedrich Zahn, gives the history of the movement among the German printers. It is interesting and instructive, affording a good parallel to the English movement and showing some characteristic differences between the English and the German organizations.

Almost all the disputes referred to in this volume concern wages, and it is a principle acknowledged by both parties to the disputes that wages should follow the rise and fall of prices. The advantage of this principle

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is obvious; it unites employers and laborers by the same interest in the development of the industry. But the supreme difficulty is to attain a fair ratio between prices and wages. In industries which supply local demands, where profits are high, where an increase of the cost of production can be shifted to the consumer or shareholder, — in all industries which are natural monopolies, the ratio between wages and prices has successfully been settled by arbitration. In this case no practical difficulties present themselves. The umpire, who will necessarily be an outsider, can easily understand the technical part of the question, since it concerns unskilled labor; and if only the organizations of both parties are powerful enough to make the decision binding on all concerned, arbitration will answer all purposes.

But the difficulties begin with those industries where, in fixing the price of the product, individualism stops short, — where the individual seller is not asked what price would be a just and necessary return for his outlay. In industries where the prices are the result of international competition and are affected by all the fluctuations of the world market, it is almost impossible to obtain a constant and just ratio between wages and prices. Here an unjust increase of wages often is fatal to the interests of the producer, and it is in these cases, where the need of arbitration is most urgent, that it has proved a failure. The umpire has to take into consideration the past, the present and the probable future condition of the market; he has to be thoroughly familiar with all technicalities in the question, with the relations of the several classes of laborers to one another, with the strength of the organizations and all other circumstances, in order to give a verdict that will satisfy both parties and calm the irritation that led to the dispute. But an outsider who will fulfil all these conditions cannot be found, and one who belongs to the trade will always be suspected of partiality. In these industries, after sliding scales have also been tried without good results, conciliation is now generally preferred to arbitration. The most beneficent results of arbitration are that it has exercised a valuable educational influence on employers and laborers, and that it leads to higher principles of justice and equality with regard to the labor contract.

But all these remedies — arbitration, sliding scales and conciliation, — are merely palliatives. They do not destroy the germ of the disease. As long as the weight of international competition is not counterbalanced by compact and comprehensive national organizations of manufacturers and laborers, in order to keep the fluctuations of prices within certain limits, a fair adjustment of profits and wages will always remain an unattainable ideal, and the moral and material welfare of the laborer will lack a firm foundation.

L. KATZENSTEIN.

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Crime and its Causes. By WILLIAM DOUGLAS MORRISON. London, Swan Sonnenschein & Co. — 231 pp.

The Elmira Reformatory. By ALEXANDER WINTER, F.S.S. London, Swan Sonnenschein & Co. — 172 pp.

The Death Penalty. By ANDREW J. PALM. New York, G. P. Putnam's Sons. — 231 pp.

Since the days when Howard made his tour of inspection of the prison dungeons of Europe the attitude of society towards the criminal has undergone a complete change. Only within the past two decades, however, has prison-reform become a world-organized movement. Though this was inaugurated in England, the United States has led the progress in practical reform and has given to the world the model prisons and prison systems.

The highest results of this reform movement are well marked in the three books before us, although they give but little idea of the movement itself. Nor are they more philosophical or theoretical than historical. Taken together the three works form a connected study: (1) of external influences upon crime and moral responsibility; (2) of the nature of reformatory punishment and its effect upon the criminal; (3) of the effect of the extreme punishment of death as a deterrent to the crime of homicide. It is the importance given to these points that constitutes the chief merit of the works. While the facts ascertained deserve the special attention of those who make the criminal laws, convict the criminal and execute punishment, they are also extremely suggestive to the student of ethics and of social science.

In *Crime and its Causes* Mr. Morrison attempts to discover some of the chief influences that conduce to crime. Such discovery he regards as of the first importance; for "it will be impossible to wipe it [crime] out till an accurate diagnosis has been made of the causes which produce it." A just sentence must "take cognizance of the sources from which crime undoubtedly springs." Neglect of these facts has given rise to "unequal and capricious sentences which not unfrequently disgrace the name of justice," and has shown its effects in legislation which tends to drive the population into jail rather than to keep them out of it.

The causes of crime Mr. Morrison comprises under the "three great categories — cosmical, social and political," or "the organism and its environment." More specifically, the influences which bear upon crime are climate and temperature, the political, economic and moral conditions of society, and "descent, sex, age, bodily and mental characteristics" of the individual (page 21). The conclusions reached may be summarized thus: More crime is committed in warm climates

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and seasons than in cold, a rise in temperature diminishing human responsibility (page 77); women being more moral are less prone to crime than men; most of the first offences are committed between the ages of sixteen and thirty; nothing definite can be said of the influence of bodily and mental peculiarities upon crime, though the presence of such influence is unmistakable, especially in its effects upon the human will; the poorer classes are no more criminal than the well-to-do, although they contribute a larger quota to the prison population; while economic conditions have their influence, this influence has been greatly overestimated, not "five per cent of the annual criminal population tried before the courts" being subject to absolute want (page 120), while "three-quarters or perhaps seven-eighths of the begging carried on by men is without economic excuse"; perhaps the most important causes of crime are the absence of early home influence, living in "a polluted moral atmosphere," intemperance and "habits of indolence" (page 94). Mr. Morrison leaves out of account one important factor which has been repeatedly insisted upon by the warden of the Eastern Penitentiary at Philadelphia — the absence of any settled trade or occupation. Convinced of the importance of this factor in crime, he advocated for several successive years the establishment of trade schools by the state. To the efficacy of such a plan Mr. Morrison bears testimony when he tells us that while crime is on the increase in civilized nations, this increase is prevented in England by virtue of her industrial schools. A final chapter discusses "The Punishment of Crime." Here the author takes the ground that punishment should be "at once an expiation and a discipline."

The principles advocated by Mr. Morrison are those on which the Elmira Reformatory was founded, — a study of all the influences that have beset the criminal in the past and, as far as possible, a special treatment of each case according to its needs. How this is done and with what results Mr. Winter tells us in his interesting account of the system of reform at Elmira. His book is the first complete account that has ever appeared of this now world-famous institution. A mere summary would not give any adequate idea of the system pursued at Elmira. Those who wish to know something of the best work that is being done for the reformation of the criminal would do well to read Mr. Winter's book. The Elmira plan has been adopted by several other states of the Union, and in a modified form by some of the countries of Europe. The system is very largely that of an industrial school. Besides learning a trade, each criminal has to pursue a course of physical, intellectual and moral culture. By a system of marks for work done in these classes and for general conduct, the duration of imprisonment is made

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to depend, within certain limits, upon the prisoner himself. If the sentences were indeterminate instead of indefinite, far better results could be attained. The success of the Elmira institution would have been more distinctly marked if Mr. Winter had presented comparisons with other prison systems. He tells us, for instance, that about eighty per cent of the Elmira prisoners never return to prison; but this fact would have been far more significant if he had also told us that in the prisons of the United States the percentage of "first offenders" who do not return is less than forty.

Mr. Palm appears as an earnest advocate for the abolition of the death penalty. While personally influenced by humanitarian feelings, Mr. Palm rests his chief argument upon the principle recognized by penologists, that certainty of conviction and punishment is a more potent deterrent to crime than severity of punishment. This thesis is supported by statistics which show that murder has decreased in those states that have abolished the death penalty. Mr. Palm also makes a rather strong argument for his cause by showing the actual working of the jury system, which, condemning the innocent and acquitting the guilty, or passing judgments that are in utter contradiction to one another, makes punishment rest quite as much upon chance as upon fact or justice. The clergy are severely arraigned for upholding capital punishment on arguments drawn from the Bible; and it is maintained that most of the supporters of the death penalty find their sanction either in the Bible or in custom. Indeed, how little thinking is really given to this important subject by those whose duty it is above all others to give it thought, is clearly illustrated in the collected opinions of state executives, lawmakers and judges. Mr. Palm closes with a chapter on war. His ideal is no army and no war. The army is pictured as a breeder of crime; but the criminal statistics of former soldiers may fairly be explained as resulting from the lack of settled occupation. And against the charge of the demoralizing influence of the army, it is to be said that our Indian affairs were conducted with less war and more justice under the management of the army than they are now under politicians.

S. F. WESTON.

A State Iniquity: Its Rise, Extension and Overthrow. A Concise History of the System of State Regulated and Licensed Vice. By BENJAMIN SCOTT, F.R.A.S. London, Kegan Paul, Trench, Trübner & Co., 1890. — 8vo, 401 pp.

This work is chiefly concerned with the agitation for the repeal of the English "Contagious Diseases Acts of 1866 and 1869." The acts provided for the licensing and medical inspection of public prostitutes

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in eighteen districts where naval or military posts were located. The primary design was to protect the soldiers and seamen against the ravages of venereal diseases, but there was a strong inclination to extend the system to all military stations, and perhaps to still other places. The earlier acts were passed without attracting much public attention, though even before the first had been introduced into Parliament, Harriet Martineau and others wrote articles combating the arguments of those who favored the policy. In 1868 war was first declared against the acts by those who later came to be known as "repealers," and in the same year was formed an "Association for promoting the extension of the Contagious Diseases Act, 1866, to the civil population of the United Kingdom." The fight was a long and bitter one, ending with the triumph of the repealers in 1886.

In his preface Mr. Scott quotes the statement of a co-worker, in 1889, that "a good, statistical and exhaustive history of the conflict" was needed both to preserve the memory of good services rendered and to make it difficult to revive an agitation for any similar system. The book appears less like such a history than like a belated campaign document. It is perfectly right to use plain language in dealing with this or any subject, but there is such a thing as using words that are needlessly brutal, and this Mr. Scott at times permits himself to do. The vituperative epithets of the campaign are preserved in the book and thrust in the reader's face by means of capitalized sub-heads. These sub-heads are scattered through the volume at the rate of one or two to the page and are usually of a purely sensational character, not giving any real clue to the context, but apparently designed only to attract attention. It is a pity that the historian should have done so much to justify the epithet "hysterical" which was commonly applied to the repealers during the campaign.

The statistics used in the controversy on either side were so keenly criticized that they seem, as here given, to be well sifted and fairly reliable. In a part of a chapter on "False and Fallacious Statistics," some good examples of juggling with figures are given. A valuable bibliography of the literature of the repeal movement, filling twenty-five pages, finds place in the appendix. Perhaps it may be suggested in conclusion that physicians and surgeons sometimes blunder in passing upon such a question as this for the same reason that economists are liable to err in considering matters within their province. In trying to view a problem exclusively in its medical or economic aspects the specialist forgets altogether to reckon with the medical or the economic bearings of morality.

A. G. WARNER.

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La Charité avant et depuis 1789 dans les Campagnes de France, avec quelques Exemples tirés de l'Étranger. Par P. HUBERT-VALLEROUX, Docteur en Droit. Ouvrage couronné par l'Académie des Sciences Morales et Politiques. Paris, Guillaumin et Cie, 1890. — 8vo, vii, 435 pp.

This work at first appears to contain material of great value for the study of the economic bearings of a religious faith. For the assigned reason that the study of pauperism necessitates an examination into the burden-bearing power of the community, the author undertakes to sketch the industrial condition of rural France at various periods from the beginning of the sixteenth century to the present time. He writes from the standpoint of a Christian and a Catholic, and at each point of the inquiry is careful to point out the influence of the church upon industrial activity as a whole, as well as upon the relief of the destitute. He shows how a lessening sense of moral obligation among the people leads to an increase of the burdens of pauperism through an increase of the number of abandoned children, of deserted parents and of the lazy and incapable of all ages; adopts as his own the statement that to elevate the morals of the poor is to save the poor; and concludes his study with a quotation from M. de Lavergne beginning: "Où Dieu manque, tout manque." But a careful examination of the work is not reassuring as to the scientific impartiality of the author's mood. For instance, in defending the church of the sixteenth century against the charge of indiscriminate and mischievous alms-giving, he interjects several paragraphs (pages 21, 22) of recrimination, telling how, at the present time, "un homme de progrès, fort anti-clérical," distributes doles in a manner as blind as that attributed to the old monasteries. The *argumentum ad hominem* has no place in a scientific treatise.

Doubtless there is much to be said in mitigation of the harsh opinions commonly entertained regarding the charities of the church of the middle ages, but the description of their methods and influence contained in this volume is too persistently commendatory to win our confidence. The author tells one side of the story, and seems to wish us to infer that he has told it all. In the earliest period which he reports upon he finds the church almost the only almoner, and untrammelled by state interference. He also describes her charities as numerous and effective. Later on two changes are found to be in progress: the state interferes more and more, and greater and greater evils are manifest in the administration of the charities. M. Hubert-Valleroux assumes, but does not take the trouble to demonstrate, that the latter change is the consequence of the former; though it must occur to any reader that the causal relation of the phenomena may be partially or wholly the reverse

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of this. "Trouble springeth not up out of the ground," even for a church, and one cannot but wonder if the ecclesiastical authorities did not so abuse their early freedom as to necessitate the later intervention of the civil authorities.

The same tendency to ignore a possible explanation of state interference in charitable matters is evident in the discussion of present conditions in France, to which about two hundred pages is given. The French government is very domineering and meddlesome in such matters, but the question recurs: Does not the church herein reap what it has itself helped to sow? The liberty to establish charitable institutions that is found in the United States and the freedom of endowing them that prevails among us, receive the author's commendation; but it is yet uncertain whether our liberality in this matter may not beget serious evils as time goes on. It takes several hundred years to test practically the wisdom of a given statute regarding endowments. The fact cited by the author (page 384), that in some communes where an old endowment gives a large revenue, nearly every inhabitant is registered as indigent, indicates cogent reasons for caution in such matters.

But though we may not be willing to follow M. Hubert-Valleroux in all his conclusions, his work contains much that is useful and suggestive. We are accustomed to think of the problem of pauperism as mainly relating to urban life; but the defective organization of relief in the rural districts is partly responsible for the drift of the indigent to the towns. The newspapers frequently give long catalogues of successful business men who are country born, and it is not without interest to compare with such statements the further fact that only twenty-five per cent of those relieved by the public authorities of Paris are natives of the city. If the country districts do not make proper provision for the insane, the feeble-minded, the sick, the infirm and the dependent children that belong to them, the unfortunate, in these days of free movement and easy transportation, usually find some way of adding themselves to the dependent population of the towns. The failure of the country districts to make adequate provision for their poor comes partly from "rural hard-heartedness," partly from lack of burden-bearing power in the community and partly from the defective organization of the relieving agencies.

The author thinks that in France private charity only fails to meet all the needs of the destitute because it is gratuitously hampered by government interference. "All sorts of restraints are put upon charitable institutions, but the sale of liquor is free" (page 394). He states that there are now fewer hospitals in France than in the thirteenth and fourteenth centuries, and attributes the falling off to the discouraging influence of

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perpetual interference on the part of the administrative officers. He does not find that public charities satisfactorily take the place of the private and ecclesiastical charities that have been driven from the field. The fundamental defect of public relief is that "it tries to introduce uniformity in a matter that is diversity itself." He considers the state practically impotent to do what is most needed in relieving the poor, since its agents must be devoid of the warm personal sympathy which alone fits one for such work. "Money has not all the power attributed to it; it is sometimes powerful enough to induce men to march to death, but it has not and can never have the influence necessary to induce them to seek a career of self-devotion at once obscure and lifelong."

While this may be true, it is also true that the development of the spirit of self-sacrifice in civil officers is not impossible or unknown; and public charities at their best, as in the Elberfeld system of out-door relief, are infinitely better than some forms of untrammelled ecclesiastical and private charities with which M. Hubert-Valleroux must have become acquainted in the course of his investigations.

A. G. WARNER.

The Colonies, 1492–1750. By REUBEN GOLD THWAITES. New York and London, Longmans, Green & Co., 1891. — 12mo, 301 pp.

This is the first volume of a new series entitled *Epochs of American History*, which is issued under the editorship of Professor Hart, of Harvard University. The scope of this work, — and it is presumed of the volumes which will follow it, — is essentially the same as that of the useful series upon the epochs of European history which appeared some years ago. The writer has given a brief outline of the history of the English colonies in America, with such references to French, Dutch and Swedish colonization as were necessary to an understanding of the subject. Introductory chapters treat of the physical characteristics of the eastern part of this country, of the Indians, and of the explorations which preceded English settlement. The colonies are treated in groups, New England, middle and southern, and the account of each group closes with a chapter on the social and economic conditions prevailing within it at the end of the seventeenth century. The island colonies also receive a share of attention. The book closes with a sketch of certain phases of development common to many or all of the continental colonies during the eighteenth century, such as boundary disputes, attacks on the charters, plans for colonial union and quarrels with royal governors. Four historical maps add to the value of the book. It is also supplied with ample bibliographies.

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The object of the writer has been to produce a good text-book for schools, or a brief *résumé* for the use of the general reader. He has succeeded; the work is well done. The style is clear and agreeable. The most important facts in the history of the period have been correctly stated. Much information has been compressed within a limited space. A spirit of impartiality pervades the book. No special effort has been made to defend the cause of the colonists. It does not however appear that special use has been made of original materials. This indeed is not a fault, because it was quite sufficient for the purpose of the work that the accessible standard authorities should be judiciously used.

In the treatment of the southern colonies it may be remarked that the author has failed to lay sufficient emphasis on the overproduction of tobacco as a cause of suffering and hence of political disturbance. It operated as such in Maryland, Virginia and North Carolina throughout the seventeenth century. In Virginia it had much to do with Bacon's rebellion and with the uprisings of minor importance that preceded and followed it. It appears to have been the real cause of the tobacco-cutting rebellion which occurred during Culpepper's administration. It was no new thing for the assembly to regulate the price of this commodity and designate ports of shipment. This had been done at intervals since the earlier years of the reign of Charles I. Neither does it appear that the colony suffered from the extortions of Lord Culpepper, except so far as he was connected with the Arlington grant. The fact of the case was that the people were poor because they were producing a commodity which was a drug in the English market. In 1682 they wanted the assembly to order a cessation of tobacco planting. But the King prohibited the holding of a session until November of that year. As soon as this was known the cutting of plants began. The author also does scant justice to the memory of Governor Nicholson.

On page 90 the author states that the Bahama islands were included in the grant made to the proprietors in the second Carolina charter. The charter in question was granted in 1665 and simply enlarged the continental boundaries of Carolina. The patent for the Bahamas was issued in 1670. The grantees in the latter case were not wholly the same as in the former. During the interval the Earl of Clarendon had been driven from public life and his name does not appear in the Bahama patent; the name of Peter Colleton, moreover, is substituted for that of John Colleton. On page 204, 1693 is given as the date of the origin of county government in New York. The correct date is 1683, as is shown by a manuscript act of that date which is preserved at Albany. One of the excellences of this book is that very few erroneous statements can be found within it.

H. L. OSGOOD.

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The Genesis of the United States. By ALEXANDER BROWN. Boston and New York, Houghton, Mifflin & Co., 1891. — Two vols., 1151 pp.

The author of this work has endeavored to make an exhaustive collection of the publications and documents concerning English colonization in America between July, 1605, and June, 1616. He has sought them not merely in England, but in France and Spain as well. All those which have not been previously published are here reprinted as fully as the limits of the work will permit. The result is a documentary history of the founding of Virginia. This is supplemented by a brief chronological sketch of the voyages of discovery made by the English previous to the summer of 1605, and by a series of biographies of persons connected with the London Company and its work. The biographies, though in the main brief, occupy over two hundred and fifty pages and include several hundred names. The information conveyed in these is in many cases new and important. The value of the book to the antiquarian, though not to the historian, is increased by portraits of over one hundred of the above worthies and by fac-similes of numerous autographs. Several maps never before printed are also given in the volumes. The work of collecting and editing has been done in a manner so thorough as to merit only words of commendation. Mr. Brown has rendered a valuable service to American historians by placing at their disposal so important a body of original material.

It has been customary to regard the work of the Virginia Company during the first ten years of its existence as almost a failure. There have been several causes for this. One has been prejudice against Sir Thomas Smith and his associates because they were connected with the court party, and a corresponding prepossession in favor of Sir Edwin Sandys, who largely controlled the work of the company during the last decade of its existence, because he was a man of Puritan sympathies. Another reason is the high degree of authority usually given to the statements of Captain John Smith. He quarrelled with Wingfield and with nearly all his fellow colonists. He returned to England under a cloud. It was therefore natural that he should disparage the efforts of the company and of the leaders whom they sent out. Furthermore, the proceedings of the company during the early years of its history have not been preserved, while we possess the records of its doings under Sandys and his party. Therefore the charges which they make against their predecessors cannot be properly tested. In this book Mr. Brown has endeavored to set the work of the founders of the company in its proper light. It is impossible to do this by fixing the attention of the reader upon the sufferings of the colonists and the weakness of the colony.

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No colony escaped such experiences till after the Restoration, when the art of colonization had been in a measure learned and succor could be obtained from neighboring settlements. The documents of these volumes, arranged as they are in chronological order, reveal the efforts which were made to rouse an interest in colonization among the merchants, the nobles and the clergy of England. They show, as the editor says, that the movement became a national one, in which the royal family, the members of the Privy Council, probably a majority of the members both of the Lords and the Commons, many of the leading divines, the army, the navy and the great trading companies of London became interested. An enterprise which awakened such widespread attention as this cannot be pronounced a failure. Mr. Brown too has rendered a peculiar service to American history by choosing England as the standpoint from which to view the movement. He thus makes it very clear that these colonies did not spring up out of the soil, but were founded by the mother state. The importance of this work is further indicated by the fact that it necessitates a further and more critical examination of the writings of Captain John Smith.

But the newest and most interesting material contained in the book is the correspondence between the Spanish government and its ambassadors resident in England. Virginia lay within the territory claimed by Spain under the bull of Alexander VI. Though peace had lately been concluded with England, Philip III jealously watched every step which was taken by the Virginia Company. His ambassadors were instructed to keep the home government informed concerning the number of vessels and colonists that were sent out, the object of the enterprise and all measures that were adopted to further it. This they did, and we have here translations, made from the original in the archives of Simancas, of almost the entire correspondence between the government at Madrid and its ambassadors in England, so far as it concerned the founding of Virginia. The vigilance of Spain made the task of the company a difficult one. It must proceed with as great promptness and secrecy as possible. Hence it was that none of its proceedings were published, and, whenever possible, the Spaniards were led astray by false information. For a long time they could not ascertain the location of the colony, but finally did so (in 1610) through the report of an Irishman, named Francis Maguel, who had been in Virginia. The following year, on pretence that they were searching for a lost Spanish ship, a small vessel was sent from Lisbon *via* Havana to explore the Virginia coast. It reached the mouth of the James River, or its neighborhood, where a part of its crew went on land. Three of them were captured by the English, while an English pilot fell into the hands of the Spaniards. Half a century before, the Spanish under Melendez had destroyed the

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Huguenot settlement on the Carolina coast. It was not strange that the English should fear a similar attempt upon their own colony. The Spanish ambassadors constantly urged their master to undertake it. The King's letters show his willingness to do so. But Spain had passed the zenith of her power and could not afford to provoke a renewal of the war with England. Philip III hesitated long, but at last abandoned Virginia to his rival. Just here we see the turning point in the history of Spain as a colonizing power. The energy of the Virginia Company enabled England to occupy the northern half of the great papal gift.

In 1613 Argall was sent on his expeditions against the French at Mount Desert, St. Croix and Port Royal, all within the limits of the Virginia patent. Thus the company began the struggle with its rivals on the north, which was to end in the expulsion of the French from North America. The first treasurer and councils of the Virginia Company thus asserted its claims to the territory granted in its charter and, amid dangerous foreign opposition, made the first permanent English settlement in the New World. From this achievement as a necessary condition proceeded the entire subsequent development. Mr. Brown rightly calls it the "genesis of the United States." It is well to bear this fact in mind when considering the argument put forward by Americans in later times that *they* founded the colonies and therefore were under no obligations to the mother country. As a matter of fact their work would have been vain, had it not been for the power of the British state behind them, which was adequate to their defence at critical periods. A comparison between the fate of New Netherlands and that of the English colonies makes the truth of this very clear.

H. L. Osgood.

Journal of William Maclay, United States Senator from Pennsylvania, 1789–1791. Edited by Edgar S. Maclay, A.M. New York, D. Appleton & Co., 1890. — 8vo, xiv, 438 pp.

Portions of this journal were privately printed in 1880 with the omission of the caustic personalities that distinguish the present recension. As it now stands, the complete diary is divided into three parts corresponding to the three sessions of the first Congress, and into fourteen chapters according to the special topics occupying the attention of Congress and of the diarist. The chapter on "Titles and Ceremonies" and the three relating to the "Permanent Residence of Congress" are perhaps the most interesting. They show how intensely republican in his views the first Senator from Pennsylvania was, and they show further how narrow and illiberal a really patriotic man could be in those days.

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This narrow and illiberal spirit characterizes nearly every reference that Maclay makes to a man or a measure, — a fact which naturally detracts from the value of his diary as a source of historical information. The general reader would, perhaps, find the book dull were its pungent criticisms absent; but it is obvious to the student that Maclay's splenetic indulgences often caused him to omit important facts or to make only cursory mention of matters on which more light is now desired. For example, in none of his eight references to the North Carolina cession does he mention what Mr. Schouler[1] well calls "the cruel [*i.e.* pro-slavery] conditions attached to the gift"; yet he has space to tell how "Butler bounced, and Izard made frightful faces" at the amendment to strike out the "Honorable" before a Senator's name (page 226). To score points against aristocratic Federalists, seems indeed to have been the chief purpose for which Maclay kept his diary; but in this he was only following out the bent of his nature.

The general interest and value of the book are not, however, to be denied. In spite of his narrowness and his distrust of his fellow-men Maclay was too sensible and close an observer not to have noted down many characteristic features of contemporary life and manners that were worthy of being preserved. Had he denounced less, he would have noted more, and the readers of his diary, who do not seem to have entered into his calculations, would have had a greater respect for him. As it is, his honesty and his shrewdness cannot be impeached; and his powers as a debater and writer are conspicuous. It is no matter of surprise that he was an object of fear and suspicion to his fellow Congressmen, and that his first short term in the Senate was his last.

It seems hardly necessary to remark in conclusion that the attempt which the editor of this diary makes in his preface to substitute William Maclay for Thomas Jefferson as the father of the Democratic party is not likely to succeed. Waiving the question as to how far a party with such heterogeneous characteristics can be said to have had a father, it is clear that William Maclay was too repelling in his nature and too little endowed with creative genius to have stood in that relation to any party or school.

The publishers have done their work well, but some careless mistakes have been allowed to creep into the text, and the index is badly constructed. As a consequence of the retention of Maclay's absurd spelling, Bishop Provoost is entered twice — once as "Dr. Provost" and once as "Bishop Prevost." It was proper to retain these misspellings in the text, but to incorporate them in the index was a matter far less defensible.

W. P. TRENT.

[1] History of the United States, I, p. 149.

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The Intercourse between the United States and Japan: An Historical Sketch. By INAZO (OTA) NITOBE, Associate Professor, Sapporo, Japan. (Johns Hopkins University Studies, Extra Volume VIII.) Baltimore, the Johns Hopkins Press, 1891. — 8vo, 198 pp.

Commentaries on the Constitution of the Empire of Japan. By COUNT HIROBUMI ITO. Translated by MIYATI ITO. Tokyo, English Law College, 1889. — 8vo, 259 pp.

Japan and the Pacific, and a Japanese View of the Eastern Question. By MANJIRO INAGAKI, B.A. (Cantab.). With Maps. London, T. Fisher Unwin, Paternoster Square, 1890. — 8vo, 205 pp.

Few of the Johns Hopkins studies are more interesting than the volume in which is sketched the intercourse between the United States and Japan. The author, Inazo Nitobe, was until recently a student in this country. He has very properly termed his monograph a sketch, as it is hardly exhaustive enough to be called a study. The author exhibits the faculty of writing in an interesting and entertaining style on a subject that would be apt to become, under most writers' pens, a dry, colorless statement of facts.

The monograph opens with a brief account of the foreign intercourse of old Japan. The traditional accounts of this intercourse are hardly susceptible, however, of the historical connections that our author hints at. The Korean, Okara, visited Japan in the year 157 B.C. and introduced the art of writing, and diplomatic relations with China were established A.D. 106. "Not only literature and science, art and industry, religion and philosophy, but also law and administration, were all imported from one or the other of these countries." The intercourse of Japan with Europe began with the discovery of the country in 1542 by Fernao Mendez Pinto, the Portuguese navigator, and continued until the exclusion of foreigners under the edict of 1637. The cause of this exclusion, the author thinks, was "antagonism to Roman Catholicism, or rather to Roman Catholics." Only a few Dutch were allowed to remain, and to them, Dr. Nitobe says, is due the dawn of Western knowledge in Japan. The reasons for Perry's expedition must be given in Dr. Nitobe's own language:

> On the one hand, the rise of industrial and commercial commonwealths on the Pacific, the discovery of gold in California, the increasing trade with China, the development of steam navigation — necessitating coal depots and ports for shelter — the opening of highways across the isthmus of Central America, the missionary enterprises on the Asiatic continent, the rise of the Hawaiian Islands; on the other hand, the knowledge of foreign nations among the ruling class in Japan, the news of the British victory in China, the progress of European settlements in the Pacific, the dissemination of Western science

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among a progressive class of scholars, the advice of the Dutch government to discontinue the antiquated policy of exclusion, — all these testified that the fulness of time for Japan to turn a new page in her history was at hand.

That the United States owes much to the Netherlands in the matter of the Perry treaty is shown by a comparison of its text with the draft of a treaty for our country and Japan which the Netherlands' government had proposed to Japan in 1852. With the overthrow of the shogunate and the restoration of imperial power in Japan in 1868 began the active Westernizing, and the predominating influence of America in this work Dr. Nitobe sketches with enthusiasm. Especially interesting is the chapter showing that the educational influences of new Japan have been almost exclusively American. The work closes with a chapter on the Japanese in America.

Dr. Nitobe's investigations in America have been thorough. Not so, apparently, investigations in his own country. He might, for instance, have endeavored to give some cause for his belief that the anonymous communication that drove Commodore Biddle from the Bay of Yedo, in 1845, was irresponsible. Similarly, the growth of public opinion in Japan in favor of foreign intercourse might have been more fully described. Nevertheless, as the essay now stands, it is valuable to students, and highly entertaining to the ordinary reader.

The culminating point in American influence in Japan was reached in 1889, when the constitution of Japan was promulgated. Count Hirobumi Ito, president of the privy council, has given to the English Law College of Japan the copyright of his commentaries on this constitution. The work is intended, the author announces in the preface, as "a medium for conveying information," and not as "a systematic exposition." It is written, as might be supposed, from the standpoint of an admirer of the new constitution, and it is only occasionally that a trace of Eastern thought can be discovered. Count Ito shows himself for the most part a man of liberal views, who has studied problems of government carefully.

The general provisions of the constitution follow and are dependent upon the imperial house law, the latter being "an exposition of the instructions bequeathed by the Sacred Imperial Ancestors of successive ages, and intended to be a guide to posterity for all time to come." A notable article is that which provides that when the Imperial Diet is not sitting, the Emperor may, in case of urgent necessity, issue imperial ordinances which shall be binding as laws until the Diet meets, when, if that body disapproves, they shall be invalid. This article is vigorously defended, as necessary in case of emergency and as a "bulwark for the protection of the people," and the commentator deprecates the criticism that the clause has called forth. He dwells with

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especial pride upon the article which puts the appointment of civil, military and naval officers upon a merit basis, and not upon considerations of hereditary rank. "This," says Count Ito, "must be considered as one of the splendid results of the Restoration."

The expositions throughout, while brief, are clear and statesmanlike, and every student will welcome the book as a valuable addition to the literature relating to Japan. It is somewhat like what our own *Federalist* might be, if brought into a more compact shape. The imperial oath, the imperial speech on the promulgation of the constitution, the imperial house law, the law of the two houses which constitute the Diet, the law of election to the House of Representatives and the law of finance have been added to the *Commentaries* by the translator.

Japan and the Pacific, the author of which is a student at Cambridge, England, cannot be said to take equal rank in excellence with some of the writings of the Japanese students in American colleges. The only portion of the book of especial value is Part I, which treats of Japan's future relations to other powers in the Pacific. A conflict between Russia and Great Britain for supremacy in the East, the writer thinks, will surely occur sooner or later. The island of Formosa is the Malta of the North Pacific, and England cannot obtain control until she has occupied it, — an event which Inagaki predicts as certain to occur. The advance of Russia will be through Manchooria and Mongolia to the Yellow Sea. Japan, therefore, "is the key of the Pacific." The effect of the opening of the Panama or the Nicaragua canal will be to increase materially her commercial importance, and all events are conspiring to give her a position of increasing influence in the diplomacy of Europe. The second part of the book, which is two-thirds of the whole, is devoted to an historical sketch of European diplomacy as it relates to the Eastern Question. It is a Japanese view only in that it shows a Japanese dislike for Russia's influence. The facts appear to have been carefully selected and logically arranged, but why this essay should be bound together with the first is not clear.

GAILLARD HUNT.

An Historical Geography of the British Colonies. By C. P. LUCAS. Oxford, Clarendon Press, 1888 and 1890. — Two vols., 191, 343 pp.

In these volumes the author continues his work upon English colonization by describing the island colonies and a few of the minor settlements on the mainland, as British Honduras, Guiana and the provinces on the Malay Peninsula. The great continental dependencies and colonies are not mentioned. The reader is thus enabled to pass in review

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those possessions of the British crown about which information is not very abundant or accessible. In the first volume are considered those in the eastern hemisphere, from Gibraltar to Hong Kong; the second volume deals exclusively with the West Indies. The American reader can with profit compare the development of the island colonies in the west with the larger and more vigorous growth of the settlements on the continent. The fixing of attention exclusively upon the latter obscures the treatment of the trade relations which sprang up during the eighteenth century between the two groups and extended to the states of continental Europe, as well as to the mother country.

The plan which the author follows is to outline the history of each colony, describe its government, its industry and commerce, and conclude with an account of the race elements and social condition of its population. The book is supplied with abundant maps and with bibliographies. Every page is packed with information useful both to the scholar and to the administrator. Unity is given to the treatment of the West Indies by a chapter on the general aspects and development of colonization in that region. The distinction between the methods pursued by the four nations which competed for the possession of those islands is clearly drawn. The work of Mr. Lucas is a valuable handbook and supplements in many ways the more ambitious volumes of Sir Charles Dilke and Mr. Froude.

There are at present three classes of British colonies, *viz.*, crown colonies proper; colonies which possess representative institutions but not responsible government; colonies which possess both representative institutions and responsible government. Those which are described in this work belong wholly to the first two classes. By far the larger part of them are crown colonies. Of those in the old world three of the Straits settlements are governed partly as native principalities. Mauritius has a legislative council some of whose members are elected. North Borneo is administered by a chartered company. The larger of the West Indies, like the Bahamas, Jamaica, the Leeward islands and Barbados, are in the intermediate stage between the condition of crown colonies and that of fully responsible government. The first General Assembly met in the Bermudas in 1620, and a representative body has existed there ever since. Soon after 1641 an elective element was added to the council in Barbados. After the Restoration a fully developed General Assembly appears, and representative government has continued from that time to the present. Since 1871 the Leeward islands, six in number, have been governed under a quasi-federal system. The executive power is in the hands of the governor, who is appointed by the crown. With him is associated a federal executive council of twenty members, half of whom are elected by the unofficial

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members of the local legislatures. This body legislates concerning certain specified subjects which affect the interests of the islands in common. Each island also has its local legislature. The capital of the group is Antigua. British Guiana is governed under a system which is much the same as that introduced during its occupation by the Dutch.

The variety of legal systems under which these colonies are administered is illustrated by the fact that in Malta the native laws which developed during its occupation by the Saracens, the Angevins and Spaniards of Sicily and the Knights of Malta, are still in force. In Ceylon, the Roman-Dutch system; in Mauritius, the French Civil Code; in the Straits settlements, English statutes, together with ordinances of the East India Company, form the basis of law. In each of the colonies local ordinances are freely issued. St. Lucia, one of the Windward islands, is the only one of the British West Indies in which the French legal system is still retained. The law of Trinidad still contains Spanish elements. The Roman-Dutch law still prevails in British Guiana. Elsewhere the common and statute law of England is in force.

The history of these colonies, as well as of those upon the American continent, has conclusively shown that the proprietary system is ill adapted for purposes of colonization. The charters to individuals or to groups of proprietors have been successively revoked and the colonies have been taken under the immediate care of the crown. It is only under this condition, whether with or without representative government, that their security and quiet has been insured.

H. L. Osgood.

Les Communes Françaises à l'Époque des Capétiens Directs. Par Achille Luchaire, Professeur à la Faculté des Lettres de Paris. Paris, Librairie Hachette et C^ie^, 1890. — 299 pp.

The object of the author of this work, as seen from the *avertissement*, is to place in convenient form for the general reader, as well as for the student of history, the position of the *commune jurée* of northern France. The work seems to be based on lectures delivered in the Sorbonne. While the author is careful, as so many Frenchmen seem to be, not to permit his readers to be frightened away by any claim to erudition, — which, in the French mind, would seem to be associated with the most heinous of all literary crimes, *viz.* dulness, — he has nevertheless made in this work more than one contribution to a subject which has not been investigated with the thoroughness which it deserves.

The work is of interest to two classes of readers — students of political history and students of administrative institutions. From the point of

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view of political history M. Luchaire's book is most useful as an antidote to the brilliant but rather superficial writings of M. Thierry on the same lines. In M. Luchaire's opinion the latter's work, as well as that of the entire historical school of the Restoration, is vitiated by the undue importance assigned to the movement of the twelfth and thirteenth centuries which resulted in the general establishment of the *communes jurées* throughout France. M. Luchaire finds the origin of the communal movement not so much in any conscious adoption of democratic principles, as in the general tendency to association so characteristic of the middle ages. The members of the various districts that obtained communes had learned from their own experience in other directions the value of combination, and when the exactions of the feudal lords began to be intolerable they simply made another application of the principle. As an illustration of the general attitude of the author may be mentioned the view which he holds of the military services rendered by the communes to the monarchy in its struggle with feudalism. Through the influence of M. Thierry and the historians of the school of the Restoration, the idea is very common that the communal militia was a potent if not a decisive factor in the success of the monarchy. M. Luchaire points out that the aid of this militia consisted almost entirely in guarding the fortifications of the towns which served the king as *points d'appui* in his expeditions. In proof of this theory M. Luchaire rewrites the history of the famous battle of Bouvines, and shows from the chronicle of Guillaume le Breton, an eye-witness of the battle, that the communal militia, who were stationed about King Philip on the field, were early in the day thrown into disorder. In the words of the author: "Les communiers n'apparaissent dans le combat que pour être battus." What explains the legend — as we must regard it — that the success of the King was due to the communal militia, is that one document relative to the battle enumerates a list of the prisoners sent after the battle by the communes to the provost of Paris. From this, M. Luchaire claims, we are not to conclude that the communal militia were the captors, but only that after the battle they became the guards of the prisoners. "Ces ne sont pas les milices communales qui ont rendu service au roi, mais les communes elles-mêmes, considérées comme places de sureté."

Another point in which M. Luchaire calls attention to the inaccuracy and inadequacy of the prevailing views on the history of the communes is in the matter of the "commune collective du Laonnais." He well brings out the difference between the rural and the urban commune of Laon. The confusion of the two is largely due to M. Thierry and M. Guizot. In M. Luchaire's opinion, the only historian who has hitherto called attention to the rural commune, M. Melville, has been

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guilty of several serious mistakes in his treatment, and has added several facts whose authenticity is not susceptible of proof.

To the student of administrative institutions the chief value of M. Luchaire's work lies in his pointing out that, on account of the absence of all documents from the seventh to the eleventh centuries, we know, and can know, very much less than French historians have led us to suppose that we did know as to the organization of the original French municipalities. M. Luchaire shows that the supposition of the existence of Roman cities in feudal Gaul is based upon almost no data whatever. Another fact brought out is the great importance of the *villes prévotales*, or *affranchies*. In these are to be found the germs of French municipal government. By their side the appearance of the communes is little more than a kaleidoscopic phenomenon, which we are hardly able to grasp before it has disappeared. In the *villes prévotales*, however, the municipal development is regular and continuous, influenced somewhat, it is true, by the communes, but after their disappearance continuing almost uninterruptedly as before, until the form of organization worked out in them became the form adopted for all France, and the principles of civil and criminal law developed by them in accordance with their charters became the law for all France.

M. Luchaire is eminently fitted for the work set before him in this volume. His studies have been mainly of the times of the Capetians. Notwithstanding the minuteness of his researches in some cases, his book is interesting. It ought to attract not only the student but also the general reader, whom its author had in mind while writing.

F. J. G.

Comparative Summary and Index of State Legislation in 1890. State Library Bulletin, Legislation No. 1. Albany, 1891. — 8vo, 82 pp.

The New York state library has undertaken a most useful task. It has indexed all the commonwealth statutes of general interest passed in 1890, and proposes to carry on this work in a series of yearly bulletins. The scope of each act is very briefly stated (the summary in no case exceeding four or five lines); and the acts passed in different states are grouped under certain general headings. Many acts reappear under several heads, and a fairly full general index makes it easy to discover what laws have been passed upon any particular subject.

The system of classification — if there is any system — is a bad one. The fundamental distinction between public and private law is ignored, and no clear lines of cleavage are discernible within these great groups. Some of the titles are almost valueless as a clue to the matter thrown beneath them; notably the first, "Public Morals." "*Mœurs*" and

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"*Sitten*" have a technical meaning in French and German police law, and in this index we do find under "Public Morals" some of the subjects which a European publicist would expect; but we also find marriage and divorce and amusements. With such an extension of the term "morals," it is not surprising to meet under this general title, a Kentucky law imposing a penalty upon the false timing of a horse-race. But nearly half the laws noticed might equally well be indexed under this title. All through the index the insertion or non-insertion of particular statutes under particular headings is arbitrary and inconsistent. For example: a North Dakota law providing for the examining and licensing of pharmacists appears under "Public Health, General Regulations," but not under "Professional and Technical Instruction" — where, however, we find similar laws concerning physicians. A Louisiana statute empowering the board of health to enact rules for the protection of operatives handling poisonous substances appears under the same sub-title of "Public Health," but not under title "Labor," sub-title "Health and Safety of Employees," where one would certainly look for it. The proper technical heading "Factory Legislation" — the heading under which all economists and most lawyers would look for laws of this character — appears nowhere.

In calling itself a "comparative summary" of state legislation, the bulletin claims too much. In the first place, the statement of each law is too summary for purposes of comparison. In the second place, the classification is so faulty that scientific comparison is impossible. To the student of comparative legislation the only value of the bulletin is as an index to the various session laws.

The library announces that in future each legislative bulletin will contain a few pages of "general discussion showing the trend of legislation"; and, at the end, a complete series of state budgets. The latter announcement will be received with general gratitude by students of finance. But as regards the discovery of "the trend of legislation," it seems to the writer that the state library had better leave that work to the universities, the learned societies and the technical reviews of the entire country. It has done much to help them already, by "blazing out" a path through the almost trackless forest of our legislation; it can best aid them in future by carrying on the same work in a better fashion. The bulletin would be much more useful if the summary of each law were made fuller, and a rational system of arrangement adopted. The classification followed in Stimson's *American Statute Law* (1886), if not perfect, is vastly better.

The library furnishes this bulletin post-paid at the extremely reasonable price of ten cents.

MUNROE SMITH.

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The Scope and Method of Political Economy. By JOHN NEVILLE KEYNES, M. A. London and New York, Macmillan & Co., 1891. — 360 pp.

After the controversial spirit that seems to have animated nearly all the writers on economic method during the past few years, it is a decided relief and pleasure to read a work that has been written in an impartial, non-partisan spirit. This book by Mr. Keynes shows, to be sure, what the training of the author has been, but in temper and intent he has no special theory that he feels bound to defend.

Though so much has been written on the subject, economic writers still will do well to read this book; for faults in method are yet very common, and it is well worth while to have standards in mind to measure one's work by. Men who have been accustomed to look upon Ricardo as the typical exponent of the deductive method will be benefited by seeing his method analyzed and its shortcomings from the deductive standpoint pointed out. Those who have made a free use of statistics in their work, and thinking, therefore, that they were using the inductive method, have attacked others that made more use of general principles, will be benefited by a clear exposition of what the inductive method really is, for what kinds of problems it is best adapted, and what are its limitations. And any writer, even one most conversant with scientific methods and with the exact scope of each, so far as that can be known, will enjoy reading this clear and accurate exposition.

The writer's aim has been to find out what is good in each method, and how far and in what class of problems each can be used to advantage. He is no advocate of any one method. From the illustrations, comments and criticisms with which the work teems, however, one sees what his training has been. He shows a distinct leaning toward the English deductive school, and if one can speak of so independent a thinker having a master, one would say that his master is Cairnes. Not that he has followed Cairnes closely; for in fact his book is a decided step in advance of the latter's *Logical Method.* He shows, indeed, a thorough knowledge of the German and Austrian writers on method; but his book would have been better if he could have used their habits of thought as readily as he does those of the English writers. Yet this is perhaps too much to ask. He has certainly been perfectly fair to all classes of writers, even if he has emphasized one class more than another in his illustrations. His conclusions will be accepted as almost wholly correct, except by the advocates of some special method, and even these cannot complain that the spirit of the treatment has not been perfectly fair and unbiased, even if at times the author has not been able to free himself from his particular training.

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On the whole the book is easily the best one that we have on the subject, and a wide use of it will be very helpful to the real advance of the science of political economy.

JEREMIAH W. JENKS.

The Economic Journal. The Journal of the British Economic Association. Edited by F. Y. EDGEWORTH. London, Macmillan & Co. Vol. I, No. 1, March, 1891. — 8vo, 240 pp.

In November, 1890, the economists of England took a step which bids fair to infuse new life into the study of economic science in its old home. Under the presidency of Mr. Goschen, the Chancellor of the Exchequer, the British Economic Association was founded, on a catholic basis and with the purpose of conducting a quarterly periodical, holding stated meetings, translating important foreign works and undertaking such other enterprises as might be deemed feasible. The first part of the programme has been realized in the appearance of *The Economic Journal* under the editorship of Professor Edgeworth.

Already from the first number, which appears in a stately volume of 240 pages, it can be seen at a glance that the journal is destined to take a front place in the list of periodicals devoted to political science. It will be possible only to mention the chief leading articles, almost every one of which contains a notable discussion of its particular topic. John Rae writes on "The Eight-Hours Day in Victoria," Professor Mayo-Smith on the "Eleventh Census of the United States," Dr. Seebohm on "French Peasant Proprietorship," Dr. Cunningham on "Eighteenth Century Economics," Professor Nicholson on "The Living Capital of the United Kingdom," Professor Wieser, on "The Austrian School," Mr. Price on "The Theory of Rent," Mr. Gibbs on "The Fall in Silver," Mr. Burnett on "The Boycott," and Mr. Courtney on the "Difficulties of Socialism." It will be seen from this list how catholic in spirit is the *Journal*, and with what a breadth of subjects it deals. In the department of "Notes and Memoranda" several interesting essays are printed on the Scotch railway strike, the recent financial crises and profit-sharing. The *Journal* evidently intends to pay but little attention to reviews, to judge from the first number; for only three works are noticed. So also the list of new books does not pretend to completeness. On the other hand, an analysis is made of the chief economic articles in the scientific reviews of all countries. The list of promised contributors is very extensive. Those from the United States are Professors Dunbar, Hadley, Mayo-Smith, Seligman, Taussig and Walker.

E. R. A. S.

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RECORD OF POLITICAL EVENTS.

[From November 1, 1890, to May 1, 1891.]

I. THE UNITED STATES.

I. National Affairs.

THE ADMINISTRATION. — In foreign relations, the **Behring Sea question** has been brought within measurable distance of settlement by arbitration. The central point of contention in the correspondence between Secretary Blaine and Lord Salisbury has been the construction of the Russo-American and Anglo-Russian treaties of 1824 and 1825, in reference to the extent of the rights recognized therein to Russia over Behring Sea. In a despatch of August 21, 1890, the British government maintained that it had never recognized the claim of the Russian ukase asserting jurisdiction over more than a marine league from the coast, and that that claim had been renounced in 1825. The despatch denied any desire on the part of Great Britain to refuse to the United States any jurisdiction that had been conceded to Russia, and offered to submit the question to arbitration. Mr. Blaine's reply of December 17, 1890, was devoted principally to the single matter of proving that, at the time of the early treaties, Behring Sea was not regarded as part of the Pacific Ocean, and therefore was not subject to the stipulations touching the shores of that ocean. He then cited instances in which Great Britain, under exceptional circumstances, had claimed to exercise jurisdiction over the open sea, and he held that the threatened extinction of the fur seals would justify like action by the United States even without special rights by treaty. Mr. Blaine expressly disavowed any claim that Behring Sea should be pronounced a *mare clausum*, but maintained that it was contrary to the dictates of common humanity as well as of economic interest to permit the extermination of the seals, merely because the destruction was wrought at a certain distance from the coast. He propounded six issues on which he asked Great Britain to submit to arbitration. These were: (1) The extent of Russia's jurisdiction actually exercised in Behring Sea and its seal fisheries prior to the cession of Alaska to the United States; (2) how far this jurisdiction was recognized by Great Britain; (3) whether Behring Sea was included in the phrase "Pacific Ocean" in the Anglo-Russian treaty of 1825, and what rights were given to Great Britain by that treaty; (4) whether all the rights of Russia in Behring Sea east of the water boundary passed to the United States by the cession of Alaska; (5) the exact rights of the United States as to the seal fisheries outside of ordinary territorial limits, whether derived from the cession by Russia or from "the ownership of the breeding-islands and the habits of the seals in resorting thither and rearing their young thereon and going out from the islands for food"; and

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(6) the extent of exclusive jurisdiction necessary to protect the seals on the breeding islands, the advisability of a closed season for seals in Behring Sea and the length of such a season. Lord Salisbury's despatch of February 21, 1891, argued again elaborately to prove that Great Britain had never resigned any of her rights under international law to navigation and fishing in Behring Sea; and maintained, further, that that sea was as truly a part of the Pacific as the Bay of Biscay was a part of the Atlantic Ocean. As to the questions propounded for arbitration, he acceded to (1) and (2) unconditionally, and the first part of (3) and of (5); the fourth question was accepted by Great Britain without dispute; and the sixth was reserved for a separate reference. A new question was proposed, namely, that of damages sustained by the seizure of British sealers. Mr. Blaine's despatch of April 24 modified the wording of the propositions to which Lord Salisbury had objected, accepted the new question proposed and adduced another instance in which Great Britain had exercised jurisdiction beyond the three-mile limit. A somewhat sensational incident in the controversy was the institution of **proceedings in the Supreme Court of the United States** by the owner of a Canadian schooner which had been seized in 1887 by a revenue cutter and condemned by the district court of Alaska. The proceedings were taken at the instance of the Dominion government and with the approval of the British ministry. A motion was made, January 12, for a writ of prohibition against the Alaska court to restrain further action in the forfeiture of the seized vessel. The basis of the motion was a denial of jurisdiction by any United States courts over the high seas. A preliminary question as to the power of the Supreme Court to issue the writ to the Alaska court was, after argument, decided in the affirmative, February 2; the main issue will be argued in October. The British government gave official assurance that the judicial proceeding was not regarded as affecting the diplomatic negotiations. The President, on April 8, issued the usual proclamation forbidding all persons to enter the waters of Behring Sea within the dominion of the United States for the purpose of killing seals in violation of law. — **Diplomatic friction with Italy**, about April 1, was caused by the lynching of a number of prisoners by a mob in New Orleans on March 14. Among the victims were several subjects of the King of Italy. The Italian minister promptly protested to the State Department against the remissness of the local authorities in not protecting the prisoners, and called for the execution of the nation's treaty obligations assuring the equal benefits of the laws to Italian subjects. On behalf of the Italian government reparation was demanded as follows: (1) An official assurance that the guilty parties should be brought to justice; (2) the recognition that an indemnity was due to the families of the victims. The State Department was in communication with the Louisiana authorities, seeking to ascertain all the facts of the case, when on March 31 Baron Fava, the Italian minister, announced that he had been ordered by his government to leave Washington. The ground assigned was that the federal government had declined to take Italy's demands into consideration. Mr. Blaine in reply pointed out that it was impossible for the government, in advance of a trial, to give any assurance as to the punishment of the murderers, and declared further that, so far from denying, the government distinctly recognized the principle of indemnity to Italian subjects who

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might have been wronged by a violation of rights secured to them by treaty. The Italian government then explained that its only desire was for a declaration that prosecution, not punishment, should be assured, and that with such a declaration the incident would be considered closed; it acknowledged the recognition by the United States that "an indemnity is due to the families of the victims." This last clause drew forth a note from Secretary Blaine, April 14, explaining that he had acknowledged indemnity only in case treaty rights had been violated, and showing at length the procedure necessary to determine this question. The treaty, he said, merely secured to Italian subjects the same protection with Americans. It did not make the United States Government the insurer of the lives and property of Italian subjects resident here. No further reply was made to the federal government, but in a note of April 28 to the *chargé d'affaires* at Washington, the Marquis de Rudini accused Mr. Blaine of having evaded the main issue, and announced "the sad necessity of concluding" that "the accomplishment of strict civil duty is impossible to the federal government. . . . Let the federal government reflect . . . if it is expedient to leave to the mercy of each state of the Union . . . the efficiency of treaties pledging its faith and honor to entire nations." Believing that "it is time to break off this bootless controversy," the Marquis instructed the *chargé* to limit his activity henceforth to current business. — A treaty of extradition with the United States of Columbia was promulgated March 19.

The Treasury. — The report of the secretary showed the net surplus for the year ending June 30, 1890, to be $57,249,931.37. For the ensuing year the surplus was estimated at $52,000,000, and for 1892, at a little over $15,000,000. The purchase of bonds during the summer and fall was explained at length. Mr. Windom reiterated his preference for this method of getting money into circulation as compared with that of deposits in national banks. Between July 19 and November 1 over $99,000,000 were disbursed in payment for bonds and interest. A gradual reduction of the deposits in the banks had resulted by November 1 in a decrease of over $18,000,000 since March 1, 1889. That the national banking system is not in a decline is shown by the report of 307 new associations formed during the year ending October 31, 1891, a net increase of 248 and the largest growth of any like period since 1865. — Secretary Windom died very suddenly while at a banquet in New York, January 29, and was succeeded by Mr. Charles Foster, of Ohio, February 21. — On the authority of an act recently passed at the suggestion of Mr. Windom, the Treasury in March used its discretion to refuse to supply gold in bars for export. The object was declared to be simply the removal of the stimulus to exportation afforded by the small saving in the cost of shipment in this form. Gold coin was supplied to all who demanded it.

The Navy Department. — A severe reprimand was administered by Secretary Tracy to Commander Reiter, who was in command of the Ranger at the time of the **Barrundia affair.** General Barrundia, a Guatemalan political refugee, was killed August 29 on board an American passenger steamer in a port of Guatemala by officers of that government seeking to effect his arrest. Commander Reiter's vessel was lying in the harbor, but that officer

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took no steps toward interfering in the affair until it was too late. He was censured on three points: (1) because, though informed of the proposed removal of Barrundia, he made no attempt to ascertain the sufficiency of the charge upon which the removal was based; (2) because he did not undertake to prevent by his presence proceedings which might endanger the safety of those on board the ship; (3) because he did not consider the advisability of giving Barrundia an asylum on the Ranger. The reprimanded officer protested against the secretary's censure and demanded a court-martial. This was refused and in January the case was declared closed. It was urged in defence of the commander that the Guatemalan government had procured from the United States minister, Mr. Mizner, permission to arrest Barrundia on the vessel. The minister's act, however, was disavowed by the United States government, and he was recalled. — In the middle of April Secretary Tracy began the application of a plan for **the abolition of political patronage in the navy-yards.** Employment hereafter is to be given only through open and equal competition, and it was ordered that on June 1 the place of every foreman and master mechanic should be vacated, and filled under the new system.

The Interior Department. — The final figures of **the census**, reported November 26, fix the verified population of the United States at 62,622,250. — Treaties with various **Indian tribes** have been agreed to, opening up more land to settlement. Those which Congress ratified at the last session involved some 8,000,000 acres, acquired at a cost of about $9,000,000.

The Civil Service Commission, in its annual report, institutes comparisons which warrant them in believing that "political considerations have practically disappeared as factors in making removals in the classified service of the departments at Washington." As to the customs and postal services, the results are found to be much less satisfactory. The commission, in a letter to the President in December, took sharp issue with Postmaster-General Wanamaker for certain passages in his report derogatory to the commission's work in the railway mail service. — On April 14, President Harrison ordered the classification of a portion of the **Indian service under the civil-service rules.** The order applies to school superintendents, teachers, matrons, physicians and farmers, — estimated at about 1000 employees in all. The President also approved an amendment to the rules, designed to prevent office-holders from entering the classified service by a non-competitive examination.

Appointments to office: Envoy Extraordinary and Minister Plenipotentiary to the Central American States, Romualdo de Pacheco, of California; Associate Justice of the Supreme Court, Henry B. Brown, of Michigan; Secretary of the Treasury, Charles Foster, of Ohio; Assistant Secretary of the Treasury, Lorenzo Crounz, of Nebraska; Treasurer of the United States, E. H. Nebecker, of Indiana; Minister to China, Henry W. Blair, who was declared, however, a *persona non grata* to the Chinese government.

CONGRESS. — The second session of the fifty-first Congress lasted from December 1 till March 4. **The President's message** contained only a few points of especial interest. It expressed great satisfaction with the work of Congress in its first session, pointed to an excellent general condition of trade and industry in the country and deprecated any attempt soon to make

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further changes in the tariff. The McKinley Bill was defended from the charges that had been brought against it, especially those which held it responsible for higher prices and for limitation of foreign trade. The President thought that final judgment could only be justly given after a longer experience with the act in operation. Much satisfaction was expressed with the reciprocity provision of the act, and a hope was held out of early advantages to be derived from it. These advantages, however, would be surer and greater if provision should promptly be made for the encouragement of first-class steam communication with nations likely to meet our advances favorably. Subsidies were urgently recommended for steamship lines to South America and Australia. The advantage to trade that would follow the establishment of the international American bank recommended by the late conference was dwelt upon. The message closed with a warm defence of the proposed law for the control of federal elections and an earnest expression of desire for its passage. — **Speaker Reed and the minority** were in violent collision on a number of occasions through the session, though the conflicts were not as prolonged as during the previous session. On the customary resolution of thanks to the Speaker at the final adjournment, on which the vote is generally unanimous, the Democrats voted in the negative, and Mr. Reed confined his "sincere and heartfelt acknowledgments" to "the members on my left, with whom I am politically associated." — The following were among the most **important laws enacted**: The new apportionment of representatives, based on the last census, and fixing the number of members for the next decade at 356; an act to refund to the states the direct tax levied by act of August 5, 1861; an act for the further regulation of immigration, making the inspection of immigration the duty of federal officials, and imposing more rigorous rules for excluding undesirable immigrants; an act to relieve the Supreme Court, by creating in each of the nine judicial circuits a court of appeals, consisting of two of the existing federal judges and one new judge, which shall be the final tribunal for many cases that have hitherto gone to the Supreme Court; the Postal Subsidy Act, authorizing contracts with American-built and American-owned vessels to carry foreign mails, requiring construction of the vessels with particular reference to prompt and economical conversion into auxiliary naval cruisers, and providing special compensation for the mail service furnished; and the International Copyright Act, which, after a checkered career, embodied in its final form provisions giving copyright privileges for all books printed from type set within the United States, or from plates made therefrom, and for photographs, maps, engravings, *etc.*, under similar conditions. But the act only applies to citizens of a foreign state when such state accords substantially the same privilege to citizens of the United States. — The total **appropriations** made by the fifty-first Congress, excluding the back pay and bounty to soldiers, the sugar bounty and the amount refunded to states under the Direct Tax Act, amounted to $988,410,129.55; including those items, the total will probably exceed one billion dollars. — Of measures that failed to pass at the last session, the Silver Coinage Bill (see CURRENCY) and the **Federal Elections Bill** attracted most widespread interest. The latter was debated in the Senate from the opening of the session till January 5, when, by a combination of Western Republicans

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with the Democrats, it was put aside for the Silver Bill. Made the special order again ten days later, it was so vigorously opposed in the protracted sessions of the Senate that all hope of bringing it to a vote was lost, and it was put aside finally in the last week of January. Meanwhile, a proposition had been brought forward for such a change of the rules as would enable the majority to close debate after a "reasonable" time. This measure also, which was avowedly designed to be auxiliary to the Elections Bill, was set aside by the same combination of parties January 26. Incidental to these proceedings in the Senate were resolutions introduced, and in a number of instances passed, in state legislatures having Democratic majorities, refusing appropriations for the coming world's fair at Chicago if the Elections Bill should be enacted into law.

THE TARIFF. — **The reciprocity policy** which received encouragement in the last tariff act has been the subject of much activity in the State Department throughout the period under review. On February 5, the President announced by proclamation that **Brazil** had recognized the removal of our duties on sugar, molasses, coffee and hides, by authorizing the admission of certain products of the United States either free or at a reduced rate of duty. Free admission was accorded to wheat, corn, rye, buckwheat and the manufactures of each, with other leading agricultural products, and to agricultural, mining and mechanical tools and machinery, and all machinery for manufacturing and industrial purposes except sewing machines. A reduction of 25 per cent was given on lard and its substitutes, bacon, hams, butter and cheese, canned and preserved meats, fish, fruits and vegetables, and on manufactures of cotton, iron and steel (so far as not free), leather, wood and rubber. A treaty with **Spain** in reference to commercial relations with Cuba and Porto Rico was arranged during April, but the draft has not yet been published. Negotiations are understood to be under way with Mexico and several of the South American nations in respect to reciprocity. The same matter has been much talked of in connection with **Canada**. The government of the Dominion submitted to the United States in December a basis for the consideration of a proposed joint commission. The subjects named involved the fisheries and other questions between the two countries. No further action seems to have been taken until the spring. Early in April, Sir Charles Tupper, Sir John Thompson and the Hon. George E. Foster, all in high position in the Canadian government, arrived in Washington at the invitation, it was said, of Secretary Blaine, to consider the whole question of reciprocity. They left, however, immediately, because President Harrison intimated a desire to be present at the discussion of the subject, and as he was about to leave Washington for a time, the conference had to be postponed. It was announced later that October 12 had been fixed as the date for holding the conference. With **Newfoundland**, Mr. Blaine's negotiations reached during the winter the stage of a draft-convention which only needed the signatures of the interested authorities to go into effect. By this draft, fishing vessels of the United States were accorded full privileges of procuring bait and supplies in the ports of Newfoundland, and in return Newfoundland dried fish were admitted to the United States duty free. Further, a maximum limit was set to the duties on a number of agricultural products

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entering Newfoundland from the United States, and a limited number of commodities, including agricultural implements, raw cotton and printing presses, were made free of duty. The Canadian government protested earnestly to the British foreign office against this convention, as it gave to American fishermen bait privileges not enjoyed by Canadians, and the British government decided in February that the convention must remain in abeyance until it should be more definitely ascertained whether negotiations between Canada and the United States could proceed. — The question as to the **validity of the tariff act** of last October was brought up before the board of general appraisers in December. The two points against its validity were, first, the omission of a part of one section, and second, the vesting of authority in the President by the reciprocity clause, to fix duties under certain circumstances. The board held as to the first point that only the section immediately affected by the omission should be held invalid, and as to the second point, that the power assigned to the President was not legislative and hence not repugnant to the constitution. Appeal was taken to the courts, whither numerous other cases had already gone. — It has been discovered that the last tariff act did an unintentional injury to Hawaii by omitting to make exception of that kingdom in connection with duties on commodities which were subject to the treaty of reciprocity. — On November 17, the Supreme Court decided that diagonal cloths should be classed as worsteds rather than as woollens, contrary to a ruling of the Treasury. This decision will necessitate the refunding of several millions of dollars to importers.

THE CURRENCY. — Despite the definite enactment of a law on this subject in the summer, a tendency was manifest at the opening of the session of Congress in December to renewed consideration of propositions for adding more silver to the currency. Opinion in the Republican majority was very much divided in respect to the proper plan, but a bill was prepared after much debate in caucus, and was introduced in the Senate December 18. The bill touched upon all the phases of the currency question, and was designed, according to its title, "to provide against contraction of the currency." It provided (1) for the purchase of 12,000,000 ounces of silver bullion during 1891, but not over 3,000,000 in any one month, in addition to that called for by the act of July 14, 1890, and for the issue of Treasury notes based thereon, under the same conditions; (2) for a reduction of the amount of bonds required to be deposited by national banks of capital under $50,000; (3) for the issue of notes by any national bank to an amount equal to the par value of the bonds deposited and not exceeding the paid-in capital; (4) for the purchase of silver bullion and the issue of notes based thereon to an amount necessary to make good any fall in the total outstanding national bank note circulation below $180,000,000, or in case enough silver cannot be procured at the maximum price, then the issue of legal-tender Treasury notes to supply the deficiency; (5) for free coinage of silver whenever the market price of silver shall have remained for a year at or above the coinage rate; (6) for the recoinage of mutilated and uncurrent silver coins in the Treasury, and for the issue of silver Treasury notes on the bullion value of $10,000,000 of such coins, and on the bullion value of all trade dollars in the Treasury. The bill

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again announced that the policy of the United States was to use both gold and silver as full legal-tender money, and authorized the President to encourage international negotiations looking to the general adoption of such a policy. After discussion for several weeks, the broad scheme of compromise embodied in this bill was supplanted, January 14, by a substitute providing simply for the free coinage of silver, which promptly passed in the Senate. This free coinage measure was held for some time in the House Coinage Committee. Considerable discussion of the whole question ensued throughout the country, and many hearings were given by the committee to delegations, especially from the great commercial centres. The committee finally, February 21, reported adversely to the passage of the bill, and the matter dropped. An effort, meanwhile, to attach a free-coinage clause as a rider to an appropriation bill, had failed through a ruling of the chairman in committee of the whole House. A prominent incident in the public discussion of the subject was a definite declaration by ex-President Cleveland of hostility to free coinage of silver, February 10. As the dominant sentiment among the Democrats in the South and West is favorable to free silver, this declaration was considered to have much bearing on the question of Mr. Cleveland's renomination in 1892.

THE FEDERAL JUDICIARY. — The Supreme Court passed upon another phase of the interstate commerce question by its decision on January 19, in the case of Brimmer *vs.* Rebman. It was held that the Virginia law prohibiting the sale of fresh meat at places 100 miles or more distant from the place of slaughter, save after inspection at a cost of one cent per pound, is in effect a prohibition on the sale of such meat, and is therefore unconstitutional as being a restraint on interstate commerce. — A decision by the United States district court in Chicago, December 11, had an important bearing on the efficiency of the Interstate Commerce Commission. In investigating a case of discrimination in rates the commission called in the aid of the federal grand jury, but were met there by the refusal of a witness to testify, on the ground that he might incriminate himself. The court ultimately decided that the witness must answer, as he was protected by law from having his evidence used against him. This decision is regarded as opening a way for the commission to secure information in reference to rate-cutting which has been very difficult to obtain. The case, however, has been appealed to the Supreme Court.

THE INDIANS. — A serious outbreak in South Dakota has been threatened by the development among the Indians of a remarkable delusion. In the first part of November a rumor gained very wide currency that a "Messiah" was soon to appear and effect some wonderful works in behalf of the red man. To prepare for his coming the Indians instituted assemblies and engaged in wild "ghost dances," participated in chiefly by the more excitable members of the tribes. The strange proceedings attracted much attention, and a general spirit of unrest became manifest on all the reservations. Gradually the "ghost dances" tended to assume the character of war dances, and indications were manifest of a movement among the ill-disposed element to utilize the prevailing excitement for the purpose of hostilities against the whites. Especially in the neighborhood of the Pine Ridge Agency, signs of an outbreak multiplied, and the agent lost all control of the Indians on the

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reservation. Troops had meanwhile been set in motion from all directions toward the threatened neighborhood. The knowledge of this seems to have created great alarm among even the well-disposed Indians, and many who had hitherto been influenced only by the "Messiah" delusion joined the hostile bands. The "ghost dances" were still continued, but the scattered bands of Sioux and Cheyenne dancers gradually concentrated and moved off toward the "bad lands" in the southwestern part of South Dakota. Meanwhile, Sitting Bull, whose influence for evil was much feared, had been killed by a party of scouts detailed to arrest him, and the troops had been so disposed as entirely to surround the main body of the Indians. On December 29, in the course of disarming a detached band that surrendered, the troops became involved in a sharp fight in which a number of soldiers and many more Indians were killed. By the middle of January the military movements had been so directed as to establish an overwhelming force of troops around the hostiles, and on the 15th the whole band, some 4000 in number, came into the agency and gave up their arms. The Indians profess to have had no hostile intentions originally, but to have been driven to assemble for self-defence by dread of the troops sent on the reservation to break up their religious ceremonies. A delegation came to Washington immediately after the surrender, to present their grievances to the President. Bad rations in short quantity formed a prominent feature of their complaints.

II. Affairs in the States.

THE ELECTIONS. — The general result of the voting in November was an overwhelming disaster to the Republicans. The fruits of victory were divided between the Democrats and the farmers' organizations. In the **elections for Congressmen**, the Republicans succeeded in securing less than ninety representatives. In only twelve states of the Union will they have a majority of the Congressional delegation. The reverse was quite general throughout the country, except the Pacific slope, but in the old Republican strongholds of the West — Kansas, Nebraska, Minnesota, Iowa, Illinois, *etc.* — the triumph of the opposition was particularly conspicuous. In these regions the farmers' organizations contributed most to the result. — **The elections for state officers** showed in general the same tendency as those for Congressmen. The Democrats and farmers gained control of many commonwealth organizations that had long been in Republican hands, notably Pennsylvania, Illinois and Nebraska. In an unusually large number of cases the closeness of the vote precipitated controversies as to the rightful holders of the chief offices. In Connecticut, where an absolute majority is required for election of governor, the vote was very close and a dispute arose in the legislature as to its powers in canvassing the returns. The Democratic Senate and the Republican House came to a deadlock on the question as to whether there had been a choice for governor and the incumbent held over pending the determination of a successor. The question has been brought before the courts, but no settlement of the matter has yet been reached. In New Hampshire a sharp conflict arose as to the control of the legislature, upon which the choice of governor depended. The question hinged on the right

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of certain members to take part in the organization of the House. As the courts declined to interfere and as the Republicans controlled the officers who made up the roll of members, the whole matter was settled in their favor. Nebraska chose a Democratic governor, but on the ground that he was not a citizen, the Republican incumbent opposed his inauguration. Public sentiment and the militia, however, failed to support such opposition, and after a few weeks it was withdrawn, though the courts ultimately decided that the successful candidate was disqualified. In Montana the long-standing dispute which had made a double legislature ever since the formation of a state government (see RECORD for June, 1890) was settled January 29 by an amicable compromise.

CONSTITUTIONAL CHANGES. — The Kentucky convention for the revision of the state constitution, which assembled last September, only ended its labors in April. Among the provisions agreed upon are the following: The recognition of God in the preamble; the prohibition of the legislature's exempting any property from taxation; the making of every grant, charter or franchise subject to revocation; the forbidding of slavery or involuntary servitude, except for crime (to take the place of the slavery clause in the old constitution); requiring a registration of voters in all cities and towns of over 5000 inhabitants, and that all popular elections be by secret ballot; requiring the forfeiture of the charter of any corporation whose officer or employee shall in any way attempt to influence an election; making all state and many county offices payable by salary instead of fees; prohibiting the granting of a special charter to any city or town; limiting exemptions from taxation to churches, schools and public buildings; requiring uniform municipal and state taxation on banks; prohibiting counties from voting any tax in aid of a railroad or other corporation, except turnpikes and bridges; prohibiting any corporation from owning for a longer period than five years any real estate not actually necessary to the transaction of its business; providing a heavy penalty for the giving to, or receiving by, any county or state official of free railroad or other transportation; prohibiting the consolidation of any competing railroad or telegraph lines. The convention's draft will be submitted to the people for approval in August. — The New York commission appointed to propose amendments to the judiciary article of the constitution reported to the legislature in January. Its most important recommendation aims to relieve the court of appeals when the calendar is over-crowded. — A variety of minor amendments were passed upon in several states at the November elections. Perhaps the most important was that in Nebraska which involved the question of prohibition of liquor-selling. The amendment was negatived by a great majority.

BALLOT REFORM. — The last legislative season has continued the work of its predecessor in the line of securing greater secrecy in voting. Eleven states have adopted some form of ballot law based on the Australian plan. These are Washington, North Dakota, South Dakota, Nebraska, Oregon, West Virginia, Arkansas, Vermont, Maine, New Hampshire and Ohio. This has raised the total number of states in which the reform prevails to twenty-four. Measures are pending in a number of other states, notably Illinois and Pennsylvania. An ingenious way of evading the obstacles put by the law in the

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way of bribery was devised in New York. For some uncontested office, *e.g.* that of judge, the voter under purchase was instructed to substitute on his ballot a fictitious name. If that name appeared in the count, it was sufficient evidence that the voter had earned his money.

THE TRUSTS. — The Chicago Gas Company, whose vicissitudes have been noticed in previous instalments of this RECORD, gave up in April the legal struggle to retain its original form and surrendered its charter. Its officers, however, immediately effected a new combination on the principle of the trust proper; *i.e.* the shareholders of the constituent corporations committed their interests absolutely to the charge of designated trustees. — The Sugar Trust, in New York, completed its reorganization on exactly the reverse of the plan in Chicago. Having been declared illegal in the form of a trust proper, it constituted itself an incorporated company under the laws of New Jersey, and that on an understanding with the law officers of New York who were acting against it. The trust has since been subjected to a severe legislative inquisition, but without important results. — In Ohio the state branch of the Standard Oil Trust has been subjected to legal proceedings by the state authorities looking to forfeiture of its charter. The point of the case is very much like that in the successful suit against the Sugar-Trust corporation in New York. No decision has yet been reached. — Reports from all branches of trade and manufacture show that the tendency toward combination is still very strong, though the principle is that of the corporation rather than the trust proper.

FARMERS' ORGANIZATIONS. — The strength and work of the various orders have been strikingly exhibited by their **influence in the elections.** For Congress over forty members of the Alliance were chosen to the House of Representatives; and at least three declared members have been elected to the Senate. As to state legislatures, the farmers secured a clear majority in Kansas and Nebraska, while in Alabama, Georgia, Missouri and South Carolina the dominant party is pledged to support their demands. — **The annual convention** of the "Southern" Alliance was held at Ocala, Florida, during the first week in December, with delegates present from about twenty-five states. The assembly was particularly characterized by hostility to anything like sectionalism, and passed a formal protest against the Federal Elections Bill then pending in Congress, as tending to produce bad feeling between North and South. In its platform of demands, the convention adopted that of the year before, with some modifications, including the insertion of the sub-treasury plan, the demand for a graduated income tax, and for the submission of an amendment to the constitution providing for the election of United States Senators by direct vote of the people. — **The tendency to combination** of the various farmers' organizations has resulted in the substantial blending of several on the basis of the Ocala platform. At a meeting at Washington in the latter part of January, delegates from two of the Farmers' Alliances met representatives of the Knights of Labor and the Citizens' Alliance and formed a confederation of the orders, in which government powers are to be shared according to voting strength in their respective memberships. — **The third party movement** among the industrial organizations was not favorably received by the convention at Ocala, but a little later

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the friends of the idea, especially the Kansas Alliance men, brought about the issue of a call for a convention in Cincinnati on February 23, "for the purpose of forming a National Union Party, based upon the fundamental ideas of finance, transportation, labor and land . . . preparatory to a united struggle for country and home in the great political conflict now pending that must decide who, in this country, is the sovereign, the citizen or the dollar." The organizations invited to send delegates were: "The Independent Party, the People's Party by its representatives, the Union Labor Party by its representatives, the late Federal and Confederate soldiers by their representatives, the Farmers' Alliance, the Farmers' Mutual Benefit Association, the Citizens' Alliance, the Knights of Labor, the Colored Farmers' Alliance, and all other industrial organizations that support the principles of the St. Louis agreement of December, 1889." The national authorities of the Farmers' Alliance decline to support this call, and the date of the convention was changed later to May 19. — Very much the same influences that are back of the movements just noticed were responsible for the **Western States Commercial Congress**, which met at Kansas City, April 14–17. It was called by a resolution of the Kansas legislature, and it included delegates from most of the Southern and Western states, besides a number of members at large, in all about 300. The purpose of its leading spirits was declared to be to consolidate the power of the West and the South for the support of public measures for their common interest, especially measures relating to the currency and the tariff. A letter was read from President Harrison stating fully his views on both these questions. The resolutions finally adopted called for free coinage of silver and a tariff for revenue only, together with a number of other measures, including the strengthening of the Interstate Commerce Act; protection of the water ways as a correction of railway charges; improvement of the Mississippi River and its affluents; canal connections and deep-water improvements; a ship canal connecting the lakes with the ocean; protection of harbors and the Mississippi from foreign invasion; and making navigable for ocean-going vessels the Mississippi River from St. Louis to New Orleans.

LABOR INTERESTS. — There has been little worthy of especial note in this field during the last six months. The tendency of the Knights of Labor to join hands with the farmers' orders has been mentioned above. The Federation of Labor has kept entirely apart from this movement, seeing in the farmers employers rather than employees. There have been few important strikes, though trouble among the coke miners in Pennsylvania resulted in April in some loss of life. May 1 was again celebrated with more or less enthusiasm by the laborers' organizations, but the project of a widespread strike for the eight-hour day failed to secure great support and was practically abandoned. The officers of the Federation charge the failure to the hostility of the Knights.

NECROLOGY. — December 31, Francis E. Spinner, formerly Treasurer of the United States; January 17, George Bancroft, the historian; January 29, William Windom, Secretary of the Treasury; February 13, Admiral David D. Porter; February 14, General William T. Sherman; February 27, Alexander H. H. Stuart, Secretary of the Interior under President Fillmore; March 21, General Joseph E. Johnston, of the Confederate army.

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II. FOREIGN NATIONS.

INTERNATIONAL RELATIONS. — The delicate nature of the **relations between France and Germany** has received a new illustration. The German dowager Empress arrived in Paris, February 18, on a visit nominally for the purpose of inducing French artists to exhibit their works in an approaching exposition at Berlin. Political writers professed to see in her visit evidence of a desire on the part of the Emperor for more cordial relations with France. The radical press of Paris, together with an organization known as the League of Patriots, made the presence of the Empress the occasion for violent tirades; and when she prolonged her stay beyond the few days originally intended, and paid a visit to Versailles, the agitation began to assume unpleasantly large proportions. The government became manifestly alarmed lest some insult should be offered to her, and when she left on the 27th, it was by a train different from that which had been announced. The Emperor's indignation at the turn affairs had taken was not concealed, and some bitterness was displayed by the German press. The moderate French papers, while not sympathizing with the violence of the so-called "Patriots," generally took the ground that the visit was imprudent, and that the excursion to Versailles was particularly ill-advised. — **The policy of Russia** has been the topic of chief interest during the last two months. On March 26 the Czar's ambassador at Paris presented to President Carnot, with great ceremony, the badge of the order of St. Andrew, the conferring of which was believed by many to signalize the conclusion of a formal alliance with France. Reports of a concentration of troops by Russia on her western frontier during March and April contributed to a widespread sense of insecurity. **In the Balkans**, Russia's concern in the Bulgarian situation was illustrated by a formal protest in January against the conduct of the lesser state in permitting to remain within her territory, and even in her service, certain enumerated Nihilists, some of whom were fugitives from Russian justice and were still plotting against their native land. M. Stambouloff answered in a vigorous fashion, first arguing in detail that Russia's complaints were groundless, and then dwelling at length on the history of the acts of proved Russian agents against Bulgaria. The activity of such agents in the states bordering on Bulgaria during the spring has become notorious, and the assassination of M. Beltscheff, as well as several plots against M. Stambouloff and Prince Ferdinand, are alleged to have some connection with this fact. In April a sharp exchange of notes between Russia and Turkey was caused by the passage of a Russian transport through the Dardanelles. The vessel bore merchant colors, and was carrying men and material for railroad construction to Eastern Siberia. She was stopped by the Turkish authorities, as a war vessel, but was afterwards allowed to proceed. — Great Britain and France made some approach to the settlement of **the Newfoundland fisheries question** by an agreement signed March 11. The agreement provided for a commission of arbitration to decide all questions of principle submitted to it concerning the catching and preparation of lobsters on the French shore, and after that to consider subsidiary questions relative to the fisheries on that coast. The *modus vivendi* of 1890 was continued for the fish-

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ing season of 1891. The members named to constitute the commission were M. de Martens, Professor of International Law at the University of St. Petersburg, M. Rivier, Consul General of Switzerland at Brussels, M. Gram, formerly member of the Supreme Court of Norway, and two diplomatic agents of each of the contracting governments. The French government steadily refused to consider the question of the sale of its treaty rights in the Newfoundland coast. A territorial exchange, however, was a suggestion not unfavorably received, though M. Ribot insisted on first settling the lobster question simply. It is believed that France designs to use her position in Newfoundland as an instrument for thwarting Great Britain's projects in Egypt. — The commercial relations of **Germany and Austria** have formed the subject of negotiations protracted since November. The design is by mutual tariff concessions to unite more closely the two empires, with possibly Italy included, against their political and commercial rivals. Strong opposition to the proposed reduction in the German grain tariff is manifested among the agricultural classes, and other obstacles of a serious character have thus far rendered a definitive treaty impossible.

GREAT BRITAIN AND IRELAND. — Altogether the most exciting incidents of the last six months have been connected with **the rupture of the Irish National Party**. The long-pending O'Shea divorce suit, in which Mr. Parnell was co-respondent, came up for trial in November and, no defence being made, was decided for the plaintiff on the 17th. The character of the evidence against the co-respondent excited much comment, and the desirability of his retirement from political life was freely discussed. On November 25, at the opening of Parliament, the Irish members re-elected Mr. Parnell as their party leader. It was thought by many that Mr. Parnell would accept the compliment and retire, but he gave no sign of withdrawal. On the same day was published a letter from Mr. Gladstone to Mr. John Morley, declaring that Mr. Parnell's continuance in leadership would be disastrous to the cause of Ireland, and would render Mr. Gladstone's retention of the Liberal leadership a nullity. This letter instantly created division in the Irish ranks as to whether the Liberal alliance or Mr. Parnell should be retained. The policy of the latter was revealed on the 28th by an address to the Irish people. This contained no allusion to the personal matter, but made a bitter attack on Mr. Gladstone and the Liberal party for claiming a veto on the Irish party's choice of a leader. Mr. Parnell disclosed a confidential conversation with Gladstone at Hawarden in November, 1889, in which the latter insisted on important modifications of the home-rule scheme, to the destruction of Irish hopes. Among other points of change were: the retention of Irish members at Westminster, but reduced in number to thirty-two; the dropping of the land-purchase measure as an integral part of the scheme; the indefinite control of the constabulary to be retained by the Westminster government; and the leaving of the appointment of judges to the imperial authority for ten or twelve years. Further, Mr. Parnell declared that Mr. Morley had offered him, in case of a Gladstonian victory in the next elections, the office of Irish secretary, with a minor office for some other member of the party. This Parnell had indignantly refused, as contrary to the fundamental principle of his party, — absolute independence. In conclusion

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Mr. Parnell declared: "I believe that the party will obtain home rule only provided that it remains independent of any English party. I do not believe that any action of the Irish people in supporting me will endanger the home-rule cause or postpone the establishment of an Irish parliament. But even if the danger with which we are threatened by the Liberal party of to-day were to be realized, I believe that the Irish people throughout the world would agree with me that postponement would be preferable to a compromise of our national rights by the acceptance of a measure which would not realize the aspirations of our race." To this manifesto Mr. Gladstone promptly issued a reply, denying that he had made the statements attributed to him, "or anything substantially resembling them," on the points mentioned. Mr. Morley also made an explanation which put his conversations in a wholly different light. But as to the question of the Irish leadership, Parnell's break with the Liberals precipitated a crisis. A strong feeling among the Irish members was evidently in favor of maintaining the Liberal alliance. Parnell showed a resolution to maintain his leadership. Between the 1st and the 6th of December a series of exciting meetings of the Irish members was held, in which a majority, determined to depose Parnell, were violently resisted by a minority resolved to support him. An attempt at compromise, by getting from Mr. Gladstone pledges as to certain points in the home-rule scheme, on condition of which Parnell would withdraw, failed; for the Liberal leader declined to treat until the Irish party had settled its own leadership. On December 6, in the meeting of the party, Mr. Parnell concluded a course of very arbitrary rulings as chairman by declining to put a motion for his deposition. The majority of the members then withdrew and organized as a distinct party, with Justin McCarthy as leader. A manifesto was issued, signed by forty-six of the eighty-six Nationalist members, justifying their action in refusing to recognize Mr. Parnell as leader. They set forth that his re-election was due to gratitude for past services, and his deposition to the fact that if he continued as leader the struggle might as well be abandoned. "The final question which rests with the Irish nation is: 'Lose all for Parnell, or win all without him.' Home rule with Gladstone is safe." The rupture thus produced in the Parliamentary delegation had become apparent in all Irish circles. In Ireland and in America the National League was hopelessly divided. The Roman Catholic hierarchy in Ireland took strong grounds against Parnell. In America, the committee who were seeking funds for the Nationalist cause ceased their work and returned to Europe. Both factions made ready for a vigorous canvass of Ireland, particularly in connection with the Parliamentary election soon to be held at Kilkenny. Parnell and his opponents had rival candidates in the field, and a very bitter campaign, not unattended with violence, resulted in a decisive victory for the McCarthy candidate December 22. Prolonged conferences at Boulogne, beginning about January 1, between Mr. Parnell and his adversaries, with Messrs. O'Brien and Dillon, who had returned from America, in the rôle of mediators, failed to effect reconciliation. On February 11 these gentlemen formally announced the impossibility of satisfying the extremists on either side, though the basis on which the effort had been made was kept secret by all interested. Since then both Parnell and his opponents have

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been constantly at work in public agitation in Ireland, the trend of popular sympathy being apparently away from the old leader. As his faction was rather more successful than the other in securing control of the press and of the National League's organization, new papers were started, and on March 10 a new organization was inaugurated to embody the policy of the McCarthy element. The name taken by the new organization is "The National Federation." A Parliamentary election at Sligo, April 2, resulted like that at Kilkenny in a victory for the anti-Parnellites. — **Parliament** reassembled November 25. The Queen's address contained nothing of especial note beyond the promise of measures for the relief of distress and the purchase of land in Ireland. A reform of Irish county government was mentioned as a possibility. In response to the address a simple resolution of thanks was moved, instead of the customary answer echoing the royal remarks in detail. The object of the innovation was to limit the debate on the address, which usually consumes so much time. Two days after the session opened Mr. Balfour introduced his **Irish Land Purchase Bill**, announcing that it was substantially the same as that brought in at the last session. In the line of Mr. Parnell's criticism, he had excluded from the bill grazing farms and farms whose tenants were non-resident, and as suggested by Mr. Morley, he had removed the twenty years' limit to the operation of the act. He expressed a willingness to allow some measure of influence to the local authorities as to the burdens put upon them by the securities established in the bill (*cf.* RECORD for June, 1890). The bill passed its second reading under the closure December 3, many Irish members supporting the government, and it is in the committee stage when this RECORD terminates. **The financial statement** of Mr. Goschen, April 23, announced a surplus of £1,756,000, and suggested its application to free education. On the 10th of April, the government announced the appointment of a **Royal Labor Commission**, to inquire into the relations between capital and labor, the cause of strikes and the best means of preventing them. Lord Hartington is at the head of the commission, and its membership includes representatives of all the political parties, of many manufacturing interests, and of labor organizations, with Professor Marshall and Sir Frederick Pollock to look after the economic and legal sides of the questions to be considered. The commission may have been suggested by a prolonged and violent strike of employees on the railways of Scotland in December, which resulted, after much disturbance, unfavorably to the strikers. — **Affairs in Ireland** have been exciting only in connection with the faction-fights among the Nationalists. Riots have been very common incidents of the meetings on either side. Parnell, Davitt and Timothy Healy have all been more or less seriously injured by pugnacious adversaries. **The distress in the western counties** was very thoroughly investigated by Mr. Balfour in a personal tour which ended in the first week in November. Later he secured a vote of £5000 in Parliament to furnish seed potatoes to poor cultivators. Extensive relief works were organized in the worst regions, and a credit of £55,831 was voted for this purpose in March. The Earl of Zetland and Mr. Balfour issued a long statement, January 4, as to the exact condition of the suffering population, and offered to superintend the management of private contributions of food and clothing. The responses to this

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offer were very liberal, and it is believed that no cases of actual starvation occurred. — **The Tipperary trials** of Nationalist agitators for conspiracy resulted, November 19, in a judgment of guilty as to seven of the accused, including Messrs. William O'Brien and John Dillon. These two gentlemen were sentenced to six months' imprisonment. At the conclusion of the fruitless negotiations at Boulogne, referred to above, the two returned to Ireland, surrendered to the authorities and are now serving their term in prison. — **Died**: January 30, Charles Bradlaugh, member of Parliament for Northampton; March 31, Earl Granville, the prominent Liberal statesman.

THE BRITISH COLONIES. — In Canada the central point of interest has been the **elections for the Dominion Parliament**. Sir John MacDonald dissolved Parliament, February 2, on the ground that approaching negotiations with the United States on commercial questions rendered it desirable that his government should have behind it a Parliament fresh from the people. The elections were appointed for March 5. In the very lively campaign that ensued the opposition (Liberals) adopted the principle of unrestricted reciprocity in commerce with the United States, while the Conservatives claimed that this was only a step toward annexation, and called for protection to national industries and loyalty to the British connection. This question of trade policy was by far the most prominent issue of the contest. In the voting, the Liberals made great gains in Ontario and more than held their own in Quebec, but in the Northwest and the maritime provinces the government was unusually successful. The net result was a victory for the government, who will control Parliament, but by a majority only about half as large as in the old body. — **The discontent in Newfoundland** has assumed a chronic form, and has expressed itself in various ways. The French shore question has been the leading grievance. To the plan of arbitration agreed upon by Lord Salisbury with France, the colonial government refused its consent, on the ground that all the questions at issue were not included in the scheme, and the colonists further declined to give legislative effect to the temporary *modus vivendi*. In March a colonial court gave judgment in favor of a British subject whose lobster-canning plant on the French shore had been seized by a British naval commander. On the refusal of the colonial legislature to enact a law providing for the enforcement of the home government's treaties with France, a bill was introduced in the British Parliament to secure that end, and since then the colonists have been making vigorous protests against "coercion." A committee sent by the colonial legislature made through Sir W. Whiteway, the Newfoundland premier, a strong argument before the House of Lords, April 23, against the proposed legislation. Another source of discontent was the delay on the part of the home government, at the instance of Canada, to sanction the reciprocity treaty between Newfoundland and the United States. On February 14, the colonial legislature passed resolutions expressing an emphatic protest "against the interests of this colony being made subservient to those of the Dominion of Canada," and declaring that the home government's delay was "calculated to permanently disturb that loyalty for which this colony has in the past been remarkable." The colony's Bait Act, on the other hand, has caused much opposition among her herring fishermen, and bait has been sold to French and American

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vessels in defiance of the legal prohibition, and under circumstances of riot and rebellion. — **A federal constitution for the Australasian colonies** was agreed to by a convention which sat at Sydney from March 2 to April 9. Delegates were present from New South Wales, Victoria, Queensland, South Australia, Tasmania, New Zealand and Western Australia, and Sir Henry Parkes, premier of New South Wales, through whose efforts chiefly the convention met, presided. Both in method of procedure and in results, the convention was strongly suggestive of that which framed the constitution of the United States in 1787. Important provisions of the draft are as follows: The federation is to be known as the Commonwealth of Australia. The chief executive is a governor general, appointed by the British crown, and assisted by a cabinet of seven ministers, who may sit in either house of the federal legislature. The federal Senate and House of Representatives are based on states and population respectively, and the powers of the legislature are similar to those of the Congress of the United States, with the addition, however, of jurisdiction over marriage, divorce and bankruptcy. A supreme court is provided for the union, from which appeals may go to the Queen in Council. The question of qualifications for suffrage is left to the federal legislature for final decision. The draft of the constitution is to be submitted to the people of the colonies for their approval, and will go into effect when accepted by three colonies. — Considerable attention has been excited in **India** by legislation on social questions that touch native beliefs and customs. In March the Legislative Council enacted an Age of Consent Bill, designed to put legal restriction on the early consummation of child marriages that is customary among the Hindoos. Great care had to be exercised so as not to come too violently in conflict with religious sentiment, while yet attaining the ends demanded by medical science and morality. A Factories Bill also was enacted, establishing certain limits upon the hours of work for women and children, and requiring care of ventilation, cleanliness, *etc.* The bill is said not to have done so much for the protection of the working people of India as the cotton-factory owners of Lancashire thought desirable. In the last week in March the British resident and a number of other Europeans, together with a detachment of Indian troops, were killed in an uprising of natives in Manipur, a principality on the northeast border of Bengal. An expedition was promptly sent to punish the natives, and after some fighting their capital was taken on the 27th of April.

GERMANY. — Legislative activity in both the Prussian Landtag and the Reichstag has had reference chiefly to internal reforms. A bill in the Landtag which threatened some of the privileges of the landed interest in communal administration caused some friction between the government and the Conservatives during January. The same party has been in a state of uneasiness on account of the negotiations with Austria on commercial matters, especially in view of a possible alteration of the duties on agricultural products. A bill dividing among the Catholic bishoprics, on terms very favorable to the church, some 16,000,000 marks which had been retained by the government in connection with the *Kulturkampf*, was generally considered as an indication of close relations between the administration and the Clerical party. — **Prince Bismarck's attitude** toward the government has been the subject of very general

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attention. As soon as the legislative season opened, Bismarck's organs, the Hamburg *Nachrichten* and the Munich *Allgemeine Zeitung*, began a series of very outspoken attacks on the government's policy. The grievances of the Conservatives found abundant sympathy from the Prince, and there was some talk in January of a definite Bismarck group to be formed from members of the old "Cartel" in the Reichstag and Landtag. In February the Bismarckian criticisms of the foreign policy of the empire caused great irritation in the Emperor, which found expression both in personal comment and through the inspired press. In March the Bismarckian papers attacked Minister von Boetticher by revealing that he had been helped out of great financial straits, when Bismarck was in power, through a large donation from the Guelph Fund, then under control of the Prince. The minister offered his resignation, but it was declined, and he was treated with ostentatious marks of favor by the Emperor. The incident was used by the Freisinnige party as the basis of a demand that Bismarck should be held personally responsible for all sums of public money that had been secretly devoted to the ends of his personal policy. After several times declining to stand for the Reichstag, Bismarck finally in March tacitly accepted the candidature for Geestemunde, and at the polling on April 15 obtained a plurality of some 3600 over the Socialist candidate, but not an absolute majority. Though he had created the impression that his re-entry into public life would be conditional upon a very emphatic public demand, he did not decline to submit to a second ballot, and by this, on April 30, he was finally elected. — The most prominent incident in the Emperor's career of unabated activity was a very vigorous criticism of **the German educational system**, delivered before the School Inquiry Commission, December 4. His Majesty denounced in round terms the undue attention devoted to the classics, and especially to Greek and Latin composition, and outlined a scheme of reform which in its main features was adopted by the conference. — Several important **changes in high office** have characterized the period under review. Count von Waldersee retired from the position of chief of the general staff, and Herr von Gossler from the Ministry of Education, the apparent cause being in each case a difference with the Emperor as to policy. — **Died**: March 14, Dr. Windthorst, the well-known leader of the Clerical party in Prussia; April 22, Field-Marshal Count von Moltke.

FRANCE. — **The Chambers** have been occupied principally with routine matters. The budget was voted December 10, with little opposition. The project provided for a loan of 869 million francs, of which 700 millions constituted a new debt, and the remainder was to be used in the conversion of redeemable bonds bearing four and five per cent into three per cent perpetual bonds. On the day set the whole sum was subscribed for several times over. A committee has had the government's tariff project under consideration during the whole period under review, and the general tendency of the amendments proposed has been toward a heavy increase in rates. The committee's report was presented to the Chamber of Deputies March 5, and a debate began which has not yet terminated. — **Senatorial elections** were held January 4, to fill a third of the elective seats in the upper branch of the legislature, and resulted in a gain of ten seats by the Republicans. Among the successful

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candidates was Jules Ferry, who has passed several years in retirement. — Much comment was excited in November by an address of Cardinal Lavigerie, Archbishop of Algiers, calling for a new **attitude of the Catholics towards the French Republic**. The occasion of the address was a banquet to the officers of a naval squadron, and the chief point was that now the will of the people in favor of the Republican form in France was unmistakable, and all Catholics, therefore, ought by active effort to contribute what they could to the country's political welfare under the established order. The Cardinal's views were expressed on other occasions, and received the endorsement of several members of the French hierarchy. It was considered that the assertion of these ideas marked the beginning of a break between the Catholics and the Monarchic party in France. While the Pope has not positively endorsed the movement, he has not denounced it. A circular from the Vatican took the ground of recognizing the French Republic as an established fact, but declining any positive propaganda in its behalf. Lavigerie's idea of a Catholic Republican party in French politics was considered chimerical by high officials of the church. The very delicate relations between the Pope, the Kingdom of Italy and the French Republic seem sufficient to account for a conservative papal policy. — **The radicals** of various hues have given the government what trouble they could. A demonstration by communists led to the withdrawal, in January, of Sardou's "Thermidor" from the Comédie-Française. The play contained passages denouncing the Reign of Terror, and at these a commotion was made on the first night which seemed to the government to justify the prohibition of the piece. The remnant of the Boulangists, headed by M. Déroulède, were responsible for the excitement in connection with the Empress Augusta's visit to Paris, as mentioned above. — Prince Napoleon died at Rome, March 17.

AUSTRIA-HUNGARY. — The race conflict in Bohemia formed the central point of discussion in the Diet at Prague, and by December the hopelessness of further attempts to carry through the compromise measures was quite manifest. Despite the personal efforts of the Emperor, the Old Czech party tended steadily to dissolution, and the radical Young Czechs gained in influence. The failure of the imperial policy in this matter is considered to have been the chief cause of the **dissolution of the Reichsrath**, which was unexpectedly proclaimed January 25, only a few months before its legal term would have expired. In the official press, the reason assigned was the need for a "clearing of the political situation," and the desire for a majority which, while duly regarding the complex interests of the empire, should not give way to radical and unpatriotic influences, and which, noting the signs of the times, should attach due importance to social questions. All this was interpreted to mean that Count Taaffe had definitely abandoned the policy, pursued through twelve years, of seeking support through concessions to the various nationalities of the empire, and was ready to look to the German fraction as his chief reliance in opposing such disintegrating tendencies as those of the Bohemian Czechs. In confirmation of this idea came the resignation, February 4, of Dunajewski, the Minister of Finance, who has been recognized as a pronounced advocate of the old policy. — **The elections** for the new Reichsrath took place during the first week in March and made no

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very great difference in the numbers of the different fractions, except that the Bohemian Old Czechs were almost extinguished as a party. The newly elected legislature met April 12, and was greeted by the Emperor in a speech which was very reassuring as to prospects of European peace. — The Archduke Francis Ferdinand made a visit early in February to the Russian court, and though the incident was regarded as indicating a relaxation of the tension between the Czar and the Emperor, no further significance was attached to it.

ITALY. — The general elections on November 23 resulted in an overwhelming victory for the government. Over three-fourths of the members elected belonged to parties which supported the ministry. The new Parliament assembled December 10, and was greeted by the King with a programme of financial reform and legislation in behalf of the laboring classes. On the 28th of January Signor Grimaldi, the Minister of Finance, presented his statement. He estimated the deficit for 1890–91 at 45,000,000 f., and for 1891–92 at 10,500,000 f. A number of measures were then proposed which might tend to restore the equilibrium. The debate on one of these measures led very unexpectedly, three days later, to **the downfall of Crispi.** The premier, in meeting certain criticisms on his financial policy, referred in a contemptuous manner to the Minghetti ministry of 1876, whereupon violent protests arose from the Conservatives, several of the cabinet left their seats with the ministry, and after an exciting scene the government's motion was defeated, and Crispi hastened to resign. It is understood that dissension between the Conservative and the Liberal members of the cabinet had prepared the way for this event. A new ministry was announced February 8, with the Marquis di Rudini as premier. The composition of the cabinet is generally believed to be unfavorable to stability. Rudini's programme, as announced, includes the continuance of Crispi's foreign policy, and a reduction of expenses in every department of the administration. The financial propositions of the new minister in March looked to a surplus in 1891–92, all the ministers, including even those of War and the Marine, having consented to a reduction.

RUSSIA. — The edicts against the Jews have been enforced without abatement, and much suffering is reported as a consequence. A memorial to the Czar upon the subject, sent by a meeting of London citizens through the lord mayor, was returned without comment. The action of the London meeting excited great indignation in the Russian press, and suggestions were made of a meeting in St. Petersburg to memorialize the Queen in reference to Ireland. — An alarmingly large emigration from the Polish provinces to Brazil and other parts of South America attracted the attention of the government in the fall, and measures were adopted to check the movement. An attempt was made to engage Germany's assistance in regulating the matter. — **The discontent in Finland** over the government's policy, looking to closer union with the empire, found free expression in the Finnish Diet in January, and in response, the Czar addressed a rescript on the subject to the governor-general. The tone of the document was very conciliatory. After recounting the guarantees given by his predecessors to the Finns in respect to their rights, privileges, religion and laws, and his own consistent observance of those guarantees, the Czar declared that he would undeviatingly preserve the old rights and privileges, and that he had no intention of changing the principles

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of the existing internal administration of the country. All that he desired was a strengthening of the "state connection" between the grand duchy and Russia, and in this he believed he could look to the loyal support of the Finnish people.

SPAIN. — **The elections** for the lower house of the Cortes took place February 1, and resulted in a great majority for the Conservative government. Canovas del Castillo secured a following of 289 members against the opposition's 154. Some disturbances occurred in Barcelona during the few days after the elections, owing to dissatisfaction of the Republicans with the defeat of their leader, Salmeron. In the voting two weeks later for members of the upper house, the government succeeded in getting a majority in that body also. — **The new Cortes** met on the 2d of March. The ministerial programme, as announced in the Regent's address, involved an entire readjustment of commercial relations with foreign states, a reform of the criminal law and a treatment of the labor question. On April 24 the budget was presented, showing the usual deficit. Several financial measures were introduced to improve the situation.

MINOR EUROPEAN STATES. — **In Norway** the conservative ministry of M. Stang was overthrown February 23, in opposing a motion for a diplomatic and consular representation distinct from that of Sweden. The motion was regarded as aiming at the dissolution of the union between the two kingdoms. A Liberal ministry was formed by M. Steen, with the understanding that vital questions should be postponed till after an election. — **The death of the King of the Netherlands**, William III, occurred November 23. He was succeeded by the young Princess Wilhelmina, under the regency of Queen Emma. The Grand Duchy of Luxemburg passed at his death to the Duke of Nassau, who had been acting as regent during the King's incapacity. On December 30 the Dutch representatives signed the acts of the Anti-Slavery Conference in reference to the Congo State, and thus assured the effectiveness of the measures. — **In Belgium**, the demand for revision of the constitution looking to universal suffrage has been the cause of much interest both in and out of Parliament. A motion for revision, November 27, by a Radical deputy was supported by the government, and the matter was put into regular discussion, with no definite results, however, as yet. Agitation in favor of revision has given rise to some disorder among the workingmen and socialists. Prince Baldwin of Flanders, nephew of the King and heir presumptive to the throne, died suddenly January 22. — Long smouldering discontent led to an **attempted revolution in Portugal**, January 31. Three regiments of the garrison of Oporto rose in revolt, proclaimed the republic and seized the public buildings. The insurrection was suppressed, however, in a few hours, though a number of lives were lost in street-fighting. A ministerial crisis became imminent in the middle of April, but the cabinet's resignation was withdrawn in order to complete the new English treaty in reference to Africa. — The controversy between **the Porte and the Ecumenical Patriarch** (see last RECORD) was not settled by the concessions first made by the former. Negotiations were protracted — not without suspicion of Russian influence behind the Patriarch — through two months, and not till January 6 was the interdict that had been laid on the churches finally raised.

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Shortly afterwards the Sultan issued a general amnesty to the Armenians who had been concerned in disturbances in Asia Minor in the summer of 1890. — **A ministerial crisis in Servia**, February 20, resulted in the fall of the Gruitch cabinet and the assumption of power by M. Pachitch. The change denotes a triumph of the more extreme faction of the Radicals, which is hostile to the army and the regents, and tends to look for the restoration of the Karageorgevitch dynasty. Queen Natalie has recently been causing considerable disturbance by political intrigues at Belgrade. Ex-King Milan agreed with the regency in April to leave the country till his son is of age, the consideration being a round sum down and a good annual stipend. — **Bulgaria's** great sensation has been the assassination of M. Beltscheff, the Minister of Finance, March 27. The victim was shot while walking in a public park with M. Stambouloff, the prime minister. It is supposed that the bullets were intended for the latter, and charges are made that the affair was the outcome of a political plot under Russian influence. The Russian press professes to see in the event another proof of the anarchy in Bulgaria and the necessity for the interference of some power competent to preserve order. — The Manu government in **Roumania** was overthrown February 26. It was succeeded by a cabinet headed by General Floresco.

AFRICA. — The Egyptian budget, submitted in December, showed again a small surplus, which permitted a further reduction in taxation. In February the British representative proposed to the Khedive a plan for establishing a commission, headed by an Englishman, to supervise the administration of justice. The plan excited much hostility both among the patriotic party of Egyptians and in France. — **In the Zambesi country** the rival British and Portuguese interests have been in constant friction. A Portuguese officer, engaged in some intercourse with a native chief in Manica land, was seized in November by an armed officer of the British South African Company and carried out of the region. On the other hand, some indignities are said to have been offered to a British steamer plying on the Zambesi. A *modus vivendi* for six months, signed by the home governments November 14, provided for the maintenance of the *status quo* throughout the whole region, and annulled all British treaties with native chiefs concluded since August 20. Preparations for a great "trek," or migration, of Boers into British Zambesia called forth a remonstrance from the British authorities in April, and President Krüger, of the Orange River state, put a stop to the expedition. It was suspected that the formation of an independent republic was intended. — **Italian influence in Abyssinia** met with a check in March by the final refusal of King Menelik to ratify the clause of the treaty which assigned the control of his foreign relations to Italy. But about the same time England and Italy came to an agreement respecting the boundary between Egypt and Abyssinia, and there is left, therefore, no one to dispute Italy's influence over Menelik's country.

SOUTH AMERICA. — Civil war in Chili is the most important development of the period under review. The cause of the trouble was a long-standing constitutional conflict between the legislative and the executive authority. President Balmaceda was accused of having used tyrannically the very large powers conferred upon him by the constitution. By refusing to

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vote the budget, the Congress forced him last August to receive a cabinet acceptable to itself. The term of this body was brief, however, and the objectionable conduct of the President continued, taking particularly the form of schemes designed to determine his own successor. Meanwhile he adjourned the Congress, and, none of the regular appropriations having been made, he began on January 1 a practically arbitrary rule, claiming to be the true representative of the people and the defender of the constitution. A week later the leaders of the Congressional party called upon the navy to aid in restoring a constitutional régime, and thereupon most of the fleet began operations against the supporters of the President. Active fighting has continued ever since, without decisive results. The Congressional side has no strong land forces, while the President is practically destitute of a navy. The struggle is thus limited chiefly to the seaports. Inland Balmaceda seems to have maintained the upper hand, though by purely dictatorial action. The Congressional elections, held according to law on March 29, resulted, as was to be expected under the circumstances, in a great victory for the President's party. The new Congress assembled April 20. — **The new constitution of Brazil** has been duly put into operation. The constituent assembly met November 15, and formally assumed charge of the government. In January, by a vote of censure, it forced the formation of a new cabinet, which took the place of that which had effected the revolution. On the 24th of February the new constitution was formally signed and promulgated, and General Deodoro da Fonseca was elected first President of the Republic of Brazil. Two days later, after the inauguration of the President, the assembly adjourned. — **Argentine finances** have occupied pretty much all the government's attention, and have not emerged from the deplorable situation into which they were brought during the Celman administration. The government in April ordered the suspension of payments to depositors by the national and provincial banks. — **Tariff changes**, all in the direction of increased rates, have been put in force in Brazil, Ecuador, Peru and the Argentine. The movement is supposed to have some reference to the proposed reciprocity policy of the United States. — The new contract in reference to **the Panama Canal** was duly signed and ratified by the Columbian government and Congress in December. It grants until February 28, 1893, for the formation of a new company, and provides for the proper maintenance of the property until that time. The time for completing the work is extended to ten years.

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